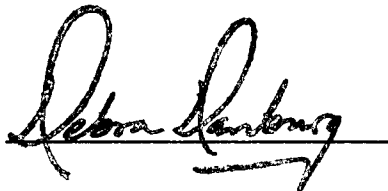


FILED DEC 17 1996

By



H. B. No. 330

A BILL TO BE ENTITLED

AN ACT

relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and

1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, [AND] BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, [and]  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, [and] ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be [and] placed where they [it] will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Sections 63.010(d) and (e), Election Code, are  
19 amended to read as follows:

20 (d) The presiding judge shall inform a voter of a challenge  
21 and of the issues raised by the challenge. The presiding judge  
22 shall [may] request the [a] voter to present proof of  
23 identification in the form of a personal identification card or  
24 other document bearing the voter's photograph and to execute an  
25 affidavit that states the facts necessary to support the voter's  
26 eligibility to vote. On presentation of the required proof of  
27 identification and affidavit, the presiding judge shall determine

1 the voter's identity. If the voter fails to present the required  
2 proof of identification, the presiding judge cannot verify the  
3 voter's identity from the proof presented, or the voter refuses to  
4 execute an affidavit, the voter may not be accepted for voting, and  
5 "rejected" shall be entered on the affidavit or, if none, on a  
6 written statement containing the voter's name and any known  
7 residence address, and, if applicable, on the list of registered  
8 voters beside the voter's name. After determining the voter's  
9 identity, the presiding judge shall return the personal  
10 identification card or document to the voter~~[7--if--available---A~~  
11 ~~voter's--failure-to-present-proof-of-identification-does-not-affect~~  
12 ~~the-voter's-right-to-vote-under-this-section]~~.

13 (e) If a ~~[the]~~ challenged voter whose identity is verified  
14 executes an affidavit that states the facts necessary to support  
15 the voter's eligibility to vote, the voter shall be accepted, and  
16 "sworn" shall be entered on the poll list beside the voter's name.  
17 If the voter's ~~[challenged-voter-does--not--execute--an]~~ affidavit  
18 does not state ~~[that--states]~~ the facts necessary to support the  
19 voter's eligibility to vote, the voter may not be accepted for  
20 voting, and "rejected" shall be entered on the affidavit and, if  
21 applicable, on the list of registered voters beside the voter's  
22 name.

23 SECTION 8. Section 64.001, Election Code, is amended to read  
24 as follows:

25 Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
26 STUB. (a) After a voter is accepted for voting, the voter shall  
27 select a ballot, go to a voting station, and prepare the ballot,

1 except as provided by Subsection (b).

2 (b) A voter who executes an affidavit in accordance with  
3 Section 63.010 shall select a ballot with a stub and, before going  
4 to a voting station:

5 (1) unclip the stub and envelope from the ballot;  
6 (2) sign the stub and enclose it in the envelope; and  
7 (3) seal the envelope and give it to an election  
8 officer.

9 (c) The election officer shall deposit the ballot stub  
10 enclosed in its envelope in envelope no. 5.

11 SECTION 9. Section 65.005, Election Code, is amended by  
12 adding Subsection (d) to read as follows:

13 (d) If a ballot with a signed stub is found, the stub shall  
14 be enclosed and sealed in an envelope and deposited in envelope no.  
15 5 before the ballot is examined.

16 SECTION 10. Section 65.010(a), Election Code, is amended to  
17 read as follows:

18 (a) The following ballots may not be counted:

19 (1) a ballot that is not provided to the voter at the  
20 polling place;

21 (2) two or more ballots that are folded together in a  
22 manner indicating that they were folded together when deposited in  
23 the ballot box;

24 (3) a write-in envelope containing a write-in vote  
25 without an attached ballot; [or]

26 (4) a ballot that has not been deposited in the ballot  
27 box used for the deposit of marked ballots; or

1                   (5) a ballot with an unsigned stub.

2           SECTION 11.   Section 66.003, Election Code, is amended to  
3 read as follows:

4           Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.

5           (a) Five [~~Four~~] envelopes shall be furnished to each polling place  
6 for use in assembling and distributing the precinct election  
7 records.

8           (b) The envelopes shall be labeled and addressed as follows:

9                   (1) "Envelope No. 1," addressed to the presiding  
10 officer of the local canvassing authority;

11                   (2) "Envelope No. 2," addressed to the general  
12 custodian of election records;

13                   (3) "Envelope No. 3," addressed to the presiding  
14 judge; [~~and~~]

15                   (4) "Envelope No. 4," addressed to the voter  
16 registrar; and

17                   (5) "Envelope No. 5," addressed to the general  
18 custodian of election records.

19           SECTION 12.   Section 66.021(b), Election Code, is amended to  
20 read as follows:

21           (b) The judge shall seal envelopes no. 1, no. 2, [~~and~~] no.  
22 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
23 are ready for distribution.

24           SECTION 13.   Subchapter B, Chapter 66, Election Code, is  
25 amended by adding Section 66.0242 to read as follows:

26           Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
27 must contain the ballot stubs.

1           SECTION 14. Section 66.051(b), Election Code, is amended to  
2 read as follows:

3           (b) The presiding judge shall deliver envelope no. 2,  
4 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
5 in person to the general custodian of election records.

6           SECTION 15. Section 66.058, Election Code, is amended by  
7 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
8 read as follows:

9           (b) The voted ballots and ballot stubs shall be preserved  
10 securely in a locked room in the locked ballot box or sealed  
11 envelope, as applicable, in which they are delivered to the general  
12 custodian of election records. Except as permitted by this code, a  
13 ballot box containing voted ballots or an envelope containing  
14 ballot stubs may not be opened during the preservation period.

15           (c) If during the preservation period an authorized entry is  
16 made into a ballot box containing voted ballots or an envelope  
17 containing ballot stubs, when the purpose for the entry is  
18 fulfilled, the box or envelope shall be relocked or resealed, as  
19 applicable, and the box and key or envelope returned to the  
20 custodian.

21           (d) A custodian of a ballot box containing voted ballots or  
22 an envelope containing ballot stubs commits an offense if, during  
23 the preservation period prescribed by Subsection (a), the  
24 custodian:

25                   (1) makes an unauthorized entry into the box or  
26 envelope; or

27                   (2) fails to prevent another person from handling the

1 box or envelope in an unauthorized manner or from making an  
2 unauthorized entry into the box or envelope.

3 (h) The ballot stubs shall be destroyed after expiration of  
4 the prescribed preservation period, subject to an extension of the  
5 period under Section 1.013. The ballot stubs are confidential  
6 information and are not subject to public inspection before they  
7 are destroyed.

8 SECTION 16. Section 66.059, Election Code, is amended to  
9 read as follows:

10 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

11 (a) On written application by the presiding officer of the local  
12 canvassing authority or the presiding judge of the election  
13 precinct, a district judge of the county in which a ballot box  
14 containing voted ballots or an envelope containing ballot stubs is  
15 in custody may order the box or envelope opened to retrieve an  
16 election record that was erroneously placed in the box or envelope.

17 (b) The district judge shall post a notice of the date,  
18 hour, and place for opening the box or envelope on the bulletin  
19 board used for posting notices of the meetings of the governing  
20 body of the political subdivision served by the general custodian  
21 of election records. The notice must remain posted continuously  
22 for the 24 hours immediately preceding the hour set for opening the  
23 box or envelope.

24 (c) Any interested person may observe the opening of the box  
25 or envelope.

26 (d) The district judge shall issue the orders necessary to  
27 safeguard the contents of a ballot box or envelope opened under



1       this section.

2               SECTION 17. Subchapter A, Chapter 124, Election Code, is  
3 amended by adding Section 124.006 to read as follows:

4               Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
5 secretary of state shall prescribe the form of a ballot stub and  
6 ballot for use with a stub and the necessary procedures to  
7 implement the ballot stub system prescribed by Section 52.074 for  
8 use with each voting system used in this state.

9               SECTION 18. Section 221.008, Election Code, is amended to  
10 read as follows:

11              Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
12 A tribunal hearing an election contest may cause secured ballot  
13 boxes, envelopes, voting machines, voting devices, or other  
14 equipment used in the election to be unsecured to determine the  
15 correct vote count or any other fact that the tribunal considers  
16 pertinent to a fair and just disposition of the contest.

17              SECTION 19. Sections 273.041, 273.042, and 273.043, Election  
18 Code, are amended to read as follows:

19              Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
20 investigation of criminal conduct in connection with an election, a  
21 grand jury, on finding probable cause to believe an offense was  
22 committed, may request a district judge of the county served by the  
23 grand jury to order an examination of the voted ballots and the  
24 ballot stubs [~~voted~~] in the election.

25              Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
26 grand jury for an examination of voted ballots and ballot stubs, a  
27 district judge may order the custodian of the [~~voted~~] ballots and

1     ballot stubs and the custodian of the keys to the ballot boxes to  
2     deliver the ballot boxes, ~~[and-the]~~ keys, and envelopes to the  
3     grand jury.

4             Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
5     ballots and ballot stubs under this subchapter shall be conducted  
6     in secret before the grand jury.

7             SECTION 20. The secretary of state by rule shall prescribe  
8     any procedures necessary to implement this Act.

9             SECTION 21. This Act takes effect September 1, 1997.

10            SECTION 22. The importance of this legislation and the  
11     crowded condition of the calendars in both houses create an  
12     emergency and an imperative public necessity that the  
13     constitutional rule requiring bills to be read on three several  
14     days in each house be suspended, and this rule is hereby suspended.

SENT TO SENATE

COAUTHOR AUTHORIZATION-75TH LEGISLATURE

(please request your coauthors to sign this form  
in lieu of the front or the back of the original bill)

For chief clerk use only

Bill or Resolution Number: HB 330

[Signature]  
signature of primary author

Debra Danburg  
printed name of primary author

12/17/96  
Date

PERMISSION TO SIGN HB 330 HAS BEEN GIVEN TO (check only one of the following):  
(bill or resolution #)

☒ ALL REPRESENTATIVES

☐ THE FOLLOWING REPRESENTATIVE(S): \_\_\_\_\_

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

<u>A2120 Alexander</u>	<u>        </u> Date	<u>A2645 Cuellar</u>	<u>        </u> Date	<u>A2935 Giddings</u>	<u>        </u> Date
<u>A2115 Allen</u>	<u>        </u> Date	<u>A2635 Culberson</u>	<u>        </u> Date	<u>A2880 Glaze</u>	<u>        </u> Date
<u>A2105 Alvarado</u>	<u>        </u> Date	<u>A2670 Danburg</u>	<u>        </u> Date	<u>A2985 Goodman</u>	<u>        </u> Date
<u>A2135 Averitt</u>	<u>        </u> Date	<u>A2675 Davila</u>	<u>        </u> Date	<u>A2990 Goolsby</u>	<u>        </u> Date
<u>A2160 Bailey</u>	<u>        </u> Date	<u>A2625 Davis</u>	<u>        </u> Date	<u>A3005 Gray</u>	<u>        </u> Date
<u>A2200 Berlanga</u>	<u>        </u> Date	<u>A2680 Delisi</u>	<u>        </u> Date	<u>A3010 Greenberg</u>	<u>        </u> Date
<u>A2250 Bonnen</u>	<u>        </u> Date	<u>A3385 Denny</u>	<u>        </u> Date	<u>A3020 Grusendorf</u>	<u>        </u> Date
<u>A2275 Bosse</u>	<u>        </u> Date	<u>A2705 Driver</u>	<u>        </u> Date	<u>A3030 Gutierrez</u>	<u>        </u> Date
<u>A2260 Brimer</u>	<u>        </u> Date	<u>A2665 Dukes</u>	<u>        </u> Date	<u>A3035 Haggerty</u>	<u>        </u> Date
<u>A2255 Burnam</u>	<u>        </u> Date	<u>A2660 Dunnam</u>	<u>        </u> Date	<u>A2695 Hamric</u>	<u>        </u> Date
<u>A2400 Carter</u>	<u>        </u> Date	<u>A2650 Dutton</u>	<u>        </u> Date	<u>A3170 Hartnett</u>	<u>        </u> Date
<u>A2585 Chavez</u>	<u>        </u> Date	<u>A2770 Edwards</u>	<u>        </u> Date	<u>A3345 Hawley</u>	<u>        </u> Date
<u>A2480 Chisum</u>	<u>        </u> Date	<u>A2760 Ehrhardt</u>	<u>        </u> Date	<u>A3180 Heflin</u>	<u>        </u> Date
<u>A2525 Christian</u>	<u>        </u> Date	<u>A2775 Eiland</u>	<u>        </u> Date	<u>A3230 Hernandez</u>	<u>        </u> Date
<u>A2520 Clark</u>	<u>        </u> Date	<u>A2785 Elkins</u>	<u>        </u> Date	<u>A3240 Hightower</u>	<u>        </u> Date
<u>A2435 Coleman</u>	<u>        </u> Date	<u>A2810 Farrar</u>	<u>        </u> Date	<u>A3310 Hilbert</u>	<u>        </u> Date
<u>A2565 Cook</u>	<u>        </u> Date	<u>A2830 Finnell</u>	<u>        </u> Date	<u>A3250 Hilderbran</u>	<u>        </u> Date
<u>A2595 Corte</u>	<u>        </u> Date	<u>A2840 Flores</u>	<u>        </u> Date	<u>A3275 Hill</u>	<u>        </u> Date
<u>A2600 Counts</u>	<u>        </u> Date	<u>A2920 Gallego</u>	<u>        </u> Date	<u>A3270 Hinojosa</u>	<u>        </u> Date
<u>A2605 Crabb</u>	<u>        </u> Date	<u>A2910 Galloway</u>	<u>        </u> Date	<u>A3285 Hirschi</u>	<u>        </u> Date
<u>A2610 Craddick</u>	<u>        </u> Date	<u>A2930 Garcia</u>	<u>        </u> Date	<u>A3305 Hochberg</u>	<u>        </u> Date

A3290 Hodge	Date	A3845 McReynolds	Date	A4435 Shields	Date
A3295 Holzheuser	Date	A3840 Merritt	Date	A4445 Siebert	Date
A3300 Horn	Date	A3850 Moffat	Date	A4525 Smith	Date
A3315 Howard	Date	A3860 Moreno	Date	A4530 Smithee	Date
A3355 Hunter	Date	A3865 Mowery	Date	A4550 Solis	Date
A3360 Hupp	Date	A3885 Naishtat	Date	A4505 Solomons	Date
A3375 Isett	Date	A3895 Nixon	Date	A4515 Staples	Date
A3380 Jackson	Date	A3875 Oakley	Date	A4510 Stiles	Date
A3415 Janek	Date	A3990 Ogden	Date	A4570 Swinford	Date
A3405 Jones, Delwin	Date	A3880 Oliveira	Date	A4585 Talton	Date
A3400 Jones, Jesse	Date	A3886 Olivo	Date	A4605 Telford	Date
A3440 Junell	Date	A4010 Palmer	Date	A4630 Thompson	Date
A3460 Kamel	Date	A4070 Patterson	Date	A4635 Tillery	Date
A3475 Keel	Date	A4180 Pickett	Date	A4640 Torres	Date
A3480 Keffer	Date	A4185 Pitts	Date	A2730 Turner, Bob	Date
A3465 King	Date	A4110 Place	Date	A4685 Turner, Sylvester	Date
A3485 Krusee	Date	A4190 Price	Date	A4690 Uher	Date
A3490 Kubiak	Date	A4200 Puente	Date	A4720 Van de Putte	Date
A3450 Kuempel	Date	A4230 Rabuck	Date	A4990 Walker	Date
A3510 Laney	Date	A4210 Ramsay	Date	A4995 West	Date
A3605 Lewis, Glenn	Date	A4240 Rangel	Date	A5035 Williams	Date
A3600 Lewis, Ron	Date	A4235 Raymond	Date	A5010 Williamson	Date
A3615 Longoria	Date	A4245 Reyna, Arthur	Date	A5000 Wilson	Date
A3620 Luna, Vilma	Date	A4236 Reyna, Elvira	Date	A5020 Wise	Date
A3715 Madden	Date	A4260 Rhodes	Date	A5015 Wohlgemuth	Date
A3750 Marchant	Date	A4315 Rodriguez	Date	A4980 Wolens	Date
A2700 Maxey	Date	A4370 Sadler	Date	A5005 Woolley	Date
A3665 McCall	Date	A4420 Seaman	Date	A5025 Yarbrough	Date
A3650 McClendon	Date	A4460 Serna	Date	A5040 Zbranek	Date

SENT TO SENATE

for chief clerk use only

Bill or Resolution Number: HB 330

### JOINT AUTHOR AUTHORIZATION

As primary author of HB 330 I hereby authorize the following joint author(s):  
(bill or resolution #)

Mary Denny  
printed name of joint author #1

Mary Denny  
signature of joint author #1

Jerry Madden  
printed name of joint author #2

Jerry A. Madden  
signature of joint author #2

Harryette Ehrhardt  
printed name of joint author #3

Harryette Ehrhardt  
signature of joint author #3

Jesse Jones  
printed name of joint author #4

\_\_\_\_\_  
signature of joint author #4

Debra Danburg  
signature of primary author

Debra Danburg

12/17/96  
date

ORIGINAL FORM--Place in book

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Debbie Irvine (Legislative Council)  
Legislative Reference Library  
House Journal

# HOUSE COMMITTEE REPORT

1<sup>st</sup> Printing

By Danburg, Denny, Madden

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1 the voter's identity. If the voter fails to present the required  
 2 proof of identification, the presiding judge cannot verify the  
 3 voter's identity from the proof presented, or the voter refuses to  
 4 execute an affidavit, the voter may not be accepted for voting, and  
 5 "rejected" shall be entered on the affidavit or, if none, on a  
 6 written statement containing the voter's name and any known  
 7 residence address, and, if applicable, on the list of registered  
 8 voters beside the voter's name. After determining the voter's  
 9 identity, the presiding judge shall return the personal  
 10 identification card or document to the voter~~[7--if--available---A~~  
 11 ~~voter's--failure-to-present-proof-of-identification-does-not-affect~~  
 12 ~~the-voter's-right-to-vote-under-this-section]~~.

13 (e) If a ~~[the]~~ challenged voter whose identity is verified  
 14 executes an affidavit that states the facts necessary to support  
 15 the voter's eligibility to vote, the voter shall be accepted, and  
 16 "sworn" shall be entered on the poll list beside the voter's name.  
 17 If the voter's ~~[challenged-voter-does--not--execute--an]~~ affidavit  
 18 does not state ~~[that--states]~~ the facts necessary to support the  
 19 voter's eligibility to vote, the voter may not be accepted for  
 20 voting, and "rejected" shall be entered on the affidavit and, if  
 21 applicable, on the list of registered voters beside the voter's  
 22 name.

23 SECTION 8. Section 64.001, Election Code, is amended to read  
 24 as follows:

25 Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
 26 STUB. (a) After a voter is accepted for voting, the voter shall  
 27 select a ballot, go to a voting station, and prepare the ballot,

1 except as provided by Subsection (b).

2 (b) A voter who executes an affidavit in accordance with  
3 Section 63.010 shall select a ballot with a stub and, before going  
4 to a voting station:

5 (1) unclip the stub and envelope from the ballot;  
6 (2) sign the stub and enclose it in the envelope; and  
7 (3) seal the envelope and give it to an election  
8 officer.

9 (c) The election officer shall deposit the ballot stub  
10 enclosed in its envelope in envelope no. 5.

11 SECTION 9. Section 65.005, Election Code, is amended by  
12 adding Subsection (d) to read as follows:

13 (d) If a ballot with a signed stub is found, the stub shall  
14 be enclosed and sealed in an envelope and deposited in envelope no.  
15 5 before the ballot is examined.

16 SECTION 10. Section 65.010(a), Election Code, is amended to  
17 read as follows:

18 (a) The following ballots may not be counted:

19 (1) a ballot that is not provided to the voter at the  
20 polling place;

21 (2) two or more ballots that are folded together in a  
22 manner indicating that they were folded together when deposited in  
23 the ballot box;

24 (3) a write-in envelope containing a write-in vote  
25 without an attached ballot; [or]

26 (4) a ballot that has not been deposited in the ballot  
27 box used for the deposit of marked ballots; or

1                   (5) a ballot with an unsigned stub.

2           SECTION 11.   Section 66.003, Election Code, is amended to  
3 read as follows:

4           Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.

5       (a) Five [~~Four~~] envelopes shall be furnished to each polling place  
6 for use in assembling and distributing the precinct election  
7 records.

8       (b) The envelopes shall be labeled and addressed as follows:

9           (1) "Envelope No. 1," addressed to the presiding  
10 officer of the local canvassing authority;

11           (2) "Envelope No. 2," addressed to the general  
12 custodian of election records;

13           (3) "Envelope No. 3," addressed to the presiding  
14 judge; [and]

15           (4) "Envelope No. 4," addressed to the voter  
16 registrar; and

17           (5) "Envelope No. 5," addressed to the general  
18 custodian of election records.

19       SECTION 12.   Section 66.021(b), Election Code, is amended to  
20 read as follows:

21       (b) The judge shall seal envelopes no. 1, no. 2, [and] no.  
22 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
23 are ready for distribution.

24       SECTION 13.   Subchapter B, Chapter 66, Election Code, is  
25 amended by adding Section 66.0242 to read as follows:

26       Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
27 must contain the ballot stubs.

1           SECTION 14. Section 66.051(b), Election Code, is amended to  
2 read as follows:

3           (b) The presiding judge shall deliver envelope no. 2,  
4 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
5 in person to the general custodian of election records.

6           SECTION 15. Section 66.058, Election Code, is amended by  
7 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
8 read as follows:

9           (b) The voted ballots and ballot stubs shall be preserved  
10 securely in a locked room in the locked ballot box or sealed  
11 envelope, as applicable, in which they are delivered to the general  
12 custodian of election records. Except as permitted by this code, a  
13 ballot box containing voted ballots or an envelope containing  
14 ballot stubs may not be opened during the preservation period.

15           (c) If during the preservation period an authorized entry is  
16 made into a ballot box containing voted ballots or an envelope  
17 containing ballot stubs, when the purpose for the entry is  
18 fulfilled, the box or envelope shall be relocked or resealed, as  
19 applicable, and the box and key or envelope returned to the  
20 custodian.

21           (d) A custodian of a ballot box containing voted ballots or  
22 an envelope containing ballot stubs commits an offense if, during  
23 the preservation period prescribed by Subsection (a), the  
24 custodian:

25                   (1) makes an unauthorized entry into the box or  
26 envelope; or

27                   (2) fails to prevent another person from handling the

1 box or envelope in an unauthorized manner or from making an  
2 unauthorized entry into the box or envelope.

3 (h) The ballot stubs shall be destroyed after expiration of  
4 the prescribed preservation period, subject to an extension of the  
5 period under Section 1.013. The ballot stubs are confidential  
6 information and are not subject to public inspection before they  
7 are destroyed.

8 SECTION 16. Section 66.059, Election Code, is amended to  
9 read as follows:

10 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

11 (a) On written application by the presiding officer of the local  
12 canvassing authority or the presiding judge of the election  
13 precinct, a district judge of the county in which a ballot box  
14 containing voted ballots or an envelope containing ballot stubs is  
15 in custody may order the box or envelope opened to retrieve an  
16 election record that was erroneously placed in the box or envelope.

17 (b) The district judge shall post a notice of the date,  
18 hour, and place for opening the box or envelope on the bulletin  
19 board used for posting notices of the meetings of the governing  
20 body of the political subdivision served by the general custodian  
21 of election records. The notice must remain posted continuously  
22 for the 24 hours immediately preceding the hour set for opening the  
23 box or envelope.

24 (c) Any interested person may observe the opening of the box  
25 or envelope.

26 (d) The district judge shall issue the orders necessary to  
27 safeguard the contents of a ballot box or envelope opened under

1 this section.

2 SECTION 17. Subchapter A, Chapter 124, Election Code, is  
3 amended by adding Section 124.006 to read as follows:

4 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
5 secretary of state shall prescribe the form of a ballot stub and  
6 ballot for use with a stub and the necessary procedures to  
7 implement the ballot stub system prescribed by Section 52.074 for  
8 use with each voting system used in this state.

9 SECTION 18. Section 221.008, Election Code, is amended to  
10 read as follows:

11 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
12 A tribunal hearing an election contest may cause secured ballot  
13 boxes, envelopes, voting machines, voting devices, or other  
14 equipment used in the election to be unsecured to determine the  
15 correct vote count or any other fact that the tribunal considers  
16 pertinent to a fair and just disposition of the contest.

17 SECTION 19. Sections 273.041, 273.042, and 273.043, Election  
18 Code, are amended to read as follows:

19 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
20 investigation of criminal conduct in connection with an election, a  
21 grand jury, on finding probable cause to believe an offense was  
22 committed, may request a district judge of the county served by the  
23 grand jury to order an examination of the voted ballots and the  
24 ballot stubs [~~voted~~] in the election.

25 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
26 grand jury for an examination of voted ballots and ballot stubs, a  
27 district judge may order the custodian of the [~~voted~~] ballots and

1     ballot stubs and the custodian of the keys to the ballot boxes to  
2     deliver the ballot boxes, [and-the] keys, and envelopes to the  
3     grand jury.

4             Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
5     ballots and ballot stubs under this subchapter shall be conducted  
6     in secret before the grand jury.

7             SECTION 20. The secretary of state by rule shall prescribe  
8     any procedures necessary to implement this Act.

9             SECTION 21. This Act takes effect September 1, 1997.

10            SECTION 22. The importance of this legislation and the  
11     crowded condition of the calendars in both houses create an  
12     emergency and an imperative public necessity that the  
13     constitutional rule requiring bills to be read on three several  
14     days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

4/1/97  
(date)

Sir:

We, your COMMITTEE ON ELECTIONS

to whom was referred HB 330 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

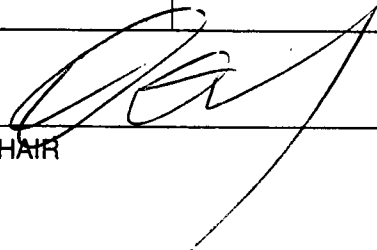
Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Danburg, Chair	X			
Jones, J., Vice-chair	X			
Denny	X			
Gallego	X			
Galloway	X			
Hodge	X			
Isett	X			
Madden	X			
Place	X			

Total      9 aye  
              ~~0~~ nay  
              ~~0~~ present, not voting  
              ~~0~~ absent

  
CHAIR



## **BILL ANALYSIS**

### **ELECTIONS**

H.B. 330

By: Danburg

4-9-97

Committee Report (Unamended)

### **BACKGROUND**

This legislation was developed during the 74th Regular Session in order to address the concerns shown by election's officials and political parties about the issue of voting by affidavit. Despite being, for the most part, uncontested in Committee and on the House floor last session, the legislation did not make it through the Senate process before session's end. During the current session, HB 330 was again supported by the Texas Association of Election Administrators and encountered no opposition despite two public hearings.

Almost everyone who is a U.S. citizen, 18 years of age or older, can vote if they register at least 30 days before the election. A person who goes to the polls without a voter registration card, and whose name does not appear on the voter rolls, can cast a ballot by signing an affidavit that states they are entitled to take part in the election. After the election, the sworn affidavits go to the county's voter registrar, who checks to see if the voters were really qualified.

Current election law does not allow for a separate ballot box for the affidavit ballot. Quickly locating ballots voted by affidavit is essential to a smooth-running, non-controversial election.

### **PURPOSE**

The purpose of HB 330 is to create another ballot box for the affidavit ballots and to guard against voter fraud. HB 330 requires the presiding judge to ask for proof of identification, in the form of an identification card or document bearing the voter's photograph, and determine the voter's identity. The bill deletes the provision that a voter's failure to present proof of identification does not affect the voter's right to vote. The voter may not be accepted for voting if: the voter fails to present proof of identification, the presiding judge cannot verify the voter's identity from proof presented, or the voter refuses to execute an affidavit.

HB 330 requires an election official to prepare a ballot stub for a voter who signs an affidavit. The voter who executes an affidavit is required to select a ballot stub and follow voting directions. The election officer would deposit the ballot stub in a sealed envelope after entering the corresponding ballot number on the stub and give it to the election records custodian. An unsigned stub would not count as a vote. Ballot stubs would not be public record and would have to be destroyed after a prescribed period unless certain extensions applied.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is granted to the secretary of state in SECTIONS 1 (Section 51.005(c), Election Code), SECTION 17 (Section 124.006, Election Code) and in SECTION 20 of the bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.005, Election Code, by adding Subsection (c) to require the secretary of state to prescribe procedures for determining the number of ballots stubs to be provided.

SECTION 2. Amends Subchapter C, Chapter 52, Election Code, by adding a new section, as follows:

MAD H.B. 330 75(R)

|

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) Requires the authority responsible for having the official ballot prepared to have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) Sets forth required contents of the ballot stub which is to be in a form approved by the Secretary of State.

SECTION 3. Amends Section 61.005, Election Code, as follows:

Sec. 61.005. New heading: SECURITY OF BALLOTS, BALLOT BOXES, STUBS, AND ENVELOPES. Requires the presiding judge of an election to take the precautions necessary to prevent access to the ballots, ballots boxes, ballot stubs, and stub envelopes in a manner not authorized by law. Makes conforming changes.

SECTION 4. Amends 62.006, Election Code, as follows:

Sec. 62.006. New heading: PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED BALLOTS AND STUBS. Requires the ballot box and envelope number five to be placed where they will be in plain view of the election officers, watches, and persons waiting to vote.

SECTION 5. Amends Chapter 62, Election Code, by adding Section 62.0081, as follows:

Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a) Requires the presiding judge to enter on each ballot stub to be used at the polling place the same number that appears on the corresponding ballot, the designation of the nature of the election, and the date of the election.

(b) Provides that the preparation of the ballot stubs need not be completed before the polls open, but an unprepared ballot is prohibited from being made available for selection by the voters.

(c) Requires the presiding judge to clip the ballot stub and envelope for its enclosure to the corresponding ballot.

SECTION 6. Amends Section 62.009, Election Code, by adding Subsection (c) to require the ballots with stubs to be placed separately from the regular ballots.

SECTION 7. Amends Sections 63.010(d) and (e), Election Code, as follows:

(d) Requires, rather than authorizes, the presiding judge to request the voter to present proof of identification in the form of a personal identification card or other document bearing the voter's photograph and to execute an affidavit that states the facts necessary to support the voter's eligibility to vote. Requires the presiding judge to determine the voter's identity on presentation of the required proof of identification card or document to the voter after determining the voter's identity. Deletes the provision that a voter's failure to present proof of identification does not affect the voter's right to vote.

(e) Makes conforming changes.

SECTION 8. Amends Section 64.001, Election Code, as follows:

Sec. 64.001. New heading: VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF STUB. (a) Created from existing text. Makes conforming changes.

(b) Requires a voter who executes an affidavit in accordance with Section 63.010 to select a ballot with a stub and perform certain duties before going to a voting station.

(c) Requires the election officer to deposit the ballot stub enclosed in its envelope in envelope number five.

SECTION 9. Amends Section 65.005, Election Code, by adding Subsection (d), to require a stub to be enclosed and sealed in envelope number five before the ballot is examined, if a ballot with a signed stub is found.

SECTION 10. Amends Section 65.010 (a), Election Code, to prohibit a ballot with an unsigned stub from being counted.

SECTION 11. Amends Section 66.003, Election Code, to make conforming changes.

SECTION 12. Amends Section 66.021 (b), Election Code, to make a conforming change.

SECTION 13. Amends Subchapter B, Chapter 66, Election Code, by adding Section 66.0242, as follows:

Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Requires envelope number five to contain the ballot stubs.

SECTION 14. Amends Section 66.051 (b), Election Code, to make a conforming change.

SECTION 15. Amends Section 66.058, Election Code, by amending Subsections (b) - (d) and adding Subsection (h), to require the ballot stubs to be destroyed after the expiration of the prescribed preservation period, subject to an extension of the period under Section 1.013. Provides that the ballot stubs are confidential information and are not subject to public inspection before they are destroyed. Makes conforming changes.

SECTION 16. Amends Section 66.059, Election Code, by making conforming changes.

SECTION 17. Amends Subchapter A, Chapter 124, Election Code, by adding Section 124.006, as follows:

Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. Requires the Secretary of State, by rule, to prescribe the form of a ballot stub and ballot for use with a stub and the necessary procedures to implement the ballot stub system prescribed by Section 52.074 for use with each voting system used in this state.

SECTION 18. Amends Section 221.008, Election Code, by making a conforming change.

SECTION 19. Amends Sections 273.041, 273.042, and 273.043, Election Code, to make a conforming change.

SECTION 20. Requires the Secretary of State, by rule, to prescribe any procedures necessary to implement this Act.

SECTION 21. Effective date: September 1, 1997.

SECTION 22. Emergency clause.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

February 16, 1997

To: Honorable Debra Danburg, Chair  
Committee on Elections  
House  
Austin, Texas

IN RE: House Bill No. 330  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 (Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

---

**Biennial Net Impact to General Revenue Funds by HB330-As Introduced**

---

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

---

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill amends the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be  $\$15.10 \times 20,394$  precincts = \$307,949.40.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

**Five Year Impact:**

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 0001
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

**Net Impact on General Revenue Related Funds:**

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, PE, JC

WITNESS LIST

HB 330  
HOUSE COMMITTEE REPORT  
Elections Committee

February 18, 1997 - 2:00P

For: Bruce Sherbet (Tx Ass Elect Admin)  
Craig Pardue (Dallas Cty)  
Fred Ebner (Himself)  
J.R. Perez (Tx Ass Elect Admin)  
Steve McDonald (Tx Dem Pty)  
Tony J. Sirvello III (Adm of Elect Harris Cty)  
On: Elizabeth Hanshaw-Ross (Secy of State)  
Sheryl N. Cole (Tx Municipal League)

February 25, 1997 - 4:00P (S/C on Subcommittee on HB 330 and HB 1017)

For: Mary Ann Collins (Repub Pty of Tx)  
On: Ann McGeehan (Secy of State)  
Sheryl N. Cole (Tx Municipal League)

SUMMARY OF COMMITTEE ACTION

HB 330

February 18, 1997 2:00PM

Considered in public hearing

Testimony taken in committee

Referred to subcommittee

Subcommittee members named

Denny - Chair/Galloway, Carolyn/Jones, Jesse/

February 25, 1997 4:00PM (Subcommittee meeting)

Considered by subcommittee in public hearing

Testimony taken in subcommittee

Left pending in subcommittee

February 27, 1997 11:00AM (Subcommittee meeting)

Considered by subcommittee in formal meeting

Reported from subcommittee favorably w/o amendments

April 1, 1997 2:00PM

Considered in public hearing

Reported favorably without amendment(s)

By Danburg, Denny, Madden

H.B. No. 330

A BILL TO BE ENTITLED

AN ACT

relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and



1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, ~~[AND]~~ BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, ~~[and]~~  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, ~~[and]~~ ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be ~~[and]~~ placed where they ~~[it]~~ will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Sections 63.010(d) and (e), Election Code, are  
19 amended to read as follows:

20 (d) The presiding judge shall inform a voter of a challenge  
21 and of the issues raised by the challenge. The presiding judge  
22 shall [may] request the [a] voter to present proof of  
23 identification in the form of a personal identification card or  
24 other document bearing the voter's photograph and to execute an  
25 affidavit that states the facts necessary to support the voter's  
26 eligibility to vote. On presentation of the required proof of  
27 identification and affidavit, the presiding judge shall determine

1 the voter's identity. If the voter fails to present the required  
 2 proof of identification, the presiding judge cannot verify the  
 3 voter's identity from the proof presented, or the voter refuses to  
 4 execute an affidavit, the voter may not be accepted for voting, and  
 5 "rejected" shall be entered on the affidavit or, if none, on a  
 6 written statement containing the voter's name and any known  
 7 residence address, and, if applicable, on the list of registered  
 8 voters beside the voter's name. After determining the voter's  
 9 identity, the presiding judge shall return the personal  
 10 identification card or document to the voter~~[,--if--available,---A~~  
 11 ~~voter's--failure-to-present-proof-of-identification-does-not-affect~~  
 12 ~~the-voter's-right-to-vote-under-this-section].~~

13 (e) If a ~~[the]~~ challenged voter whose identity is verified  
 14 executes an affidavit that states the facts necessary to support  
 15 the voter's eligibility to vote, the voter shall be accepted, and  
 16 "sworn" shall be entered on the poll list beside the voter's name.  
 17 If the voter's ~~[challenged-voter-does--not--execute--an]~~ affidavit  
 18 does not state ~~[that--states]~~ the facts necessary to support the  
 19 voter's eligibility to vote, the voter may not be accepted for  
 20 voting, and "rejected" shall be entered on the affidavit and, if  
 21 applicable, on the list of registered voters beside the voter's  
 22 name.

23 SECTION 8. Section 64.001, Election Code, is amended to read  
 24 as follows:

25 Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
 26 STUB. (a) After a voter is accepted for voting, the voter shall  
 27 select a ballot, go to a voting station, and prepare the ballot,

1 except as provided by Subsection (b).

2 (b) A voter who executes an affidavit in accordance with  
3 Section 63.010 shall select a ballot with a stub and, before going  
4 to a voting station:

5 (1) unclip the stub and envelope from the ballot;  
6 (2) sign the stub and enclose it in the envelope; and  
7 (3) seal the envelope and give it to an election  
8 officer.

9 (c) The election officer shall deposit the ballot stub  
10 enclosed in its envelope in envelope no. 5.

11 SECTION 9. Section 65.005, Election Code, is amended by  
12 adding Subsection (d) to read as follows:

13 (d) If a ballot with a signed stub is found, the stub shall  
14 be enclosed and sealed in an envelope and deposited in envelope no.  
15 5 before the ballot is examined.

16 SECTION 10. Section 65.010(a), Election Code, is amended to  
17 read as follows:

18 (a) The following ballots may not be counted:

19 (1) a ballot that is not provided to the voter at the  
20 polling place;

21 (2) two or more ballots that are folded together in a  
22 manner indicating that they were folded together when deposited in  
23 the ballot box;

24 (3) a write-in envelope containing a write-in vote  
25 without an attached ballot; [or]

26 (4) a ballot that has not been deposited in the ballot  
27 box used for the deposit of marked ballots; or

1                   (5) a ballot with an unsigned stub.

2           SECTION 11.   Section 66.003, Election Code, is amended to  
3 read as follows:

4           Sec. 66.003. ENVELOPES   FOR   DISTRIBUTION   OF   RECORDS.

5           (a) Five [~~Four~~] envelopes shall be furnished to each polling place  
6 for use in assembling and distributing the precinct election  
7 records.

8           (b) The envelopes shall be labeled and addressed as follows:

9                   (1) "Envelope No. 1," addressed to the presiding  
10 officer of the local canvassing authority;

11                   (2) "Envelope No. 2," addressed to the general  
12 custodian of election records;

13                   (3) "Envelope No. 3," addressed to the presiding  
14 judge; [~~and~~]

15                   (4) "Envelope No. 4," addressed to the voter  
16 registrar; and

17                   (5) "Envelope No. 5," addressed to the general  
18 custodian of election records.

19           SECTION 12.   Section 66.021(b), Election Code, is amended to  
20 read as follows:

21           (b) The judge shall seal envelopes no. 1, no. 2, [~~and~~] no.  
22 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
23 are ready for distribution.

24           SECTION 13.   Subchapter B, Chapter 66, Election Code, is  
25 amended by adding Section 66.0242 to read as follows:

26           Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
27 must contain the ballot stubs.

1           SECTION 14. Section 66.051(b), Election Code, is amended to  
2 read as follows:

3           (b) The presiding judge shall deliver envelope no. 2,  
4 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
5 in person to the general custodian of election records.

6           SECTION 15. Section 66.058, Election Code, is amended by  
7 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
8 read as follows:

9           (b) The voted ballots and ballot stubs shall be preserved  
10 securely in a locked room in the locked ballot box or sealed  
11 envelope, as applicable, in which they are delivered to the general  
12 custodian of election records. Except as permitted by this code, a  
13 ballot box containing voted ballots or an envelope containing  
14 ballot stubs may not be opened during the preservation period.

15           (c) If during the preservation period an authorized entry is  
16 made into a ballot box containing voted ballots or an envelope  
17 containing ballot stubs, when the purpose for the entry is  
18 fulfilled, the box or envelope shall be relocked or resealed, as  
19 applicable, and the box and key or envelope returned to the  
20 custodian.

21           (d) A custodian of a ballot box containing voted ballots or  
22 an envelope containing ballot stubs commits an offense if, during  
23 the preservation period prescribed by Subsection (a), the  
24 custodian:

25                   (1) makes an unauthorized entry into the box or  
26 envelope; or

27                   (2) fails to prevent another person from handling the

1 box or envelope in an unauthorized manner or from making an  
2 unauthorized entry into the box or envelope.

3 (h) The ballot stubs shall be destroyed after expiration of  
4 the prescribed preservation period, subject to an extension of the  
5 period under Section 1.013. The ballot stubs are confidential  
6 information and are not subject to public inspection before they  
7 are destroyed.

8 SECTION 16. Section 66.059, Election Code, is amended to  
9 read as follows:

10 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

11 (a) On written application by the presiding officer of the local  
12 canvassing authority or the presiding judge of the election  
13 precinct, a district judge of the county in which a ballot box  
14 containing voted ballots or an envelope containing ballot stubs is  
15 in custody may order the box or envelope opened to retrieve an  
16 election record that was erroneously placed in the box or envelope.

17 (b) The district judge shall post a notice of the date,  
18 hour, and place for opening the box or envelope on the bulletin  
19 board used for posting notices of the meetings of the governing  
20 body of the political subdivision served by the general custodian  
21 of election records. The notice must remain posted continuously  
22 for the 24 hours immediately preceding the hour set for opening the  
23 box or envelope.

24 (c) Any interested person may observe the opening of the box  
25 or envelope.

26 (d) The district judge shall issue the orders necessary to  
27 safeguard the contents of a ballot box or envelope opened under

1 this section.

2 SECTION 17. Subchapter A, Chapter 124, Election Code, is  
3 amended by adding Section 124.006 to read as follows:

4 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
5 secretary of state shall prescribe the form of a ballot stub and  
6 ballot for use with a stub and the necessary procedures to  
7 implement the ballot stub system prescribed by Section 52.074 for  
8 use with each voting system used in this state.

9 SECTION 18. Section 221.008, Election Code, is amended to  
10 read as follows:

11 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
12 A tribunal hearing an election contest may cause secured ballot  
13 boxes, envelopes, voting machines, voting devices, or other  
14 equipment used in the election to be unsecured to determine the  
15 correct vote count or any other fact that the tribunal considers  
16 pertinent to a fair and just disposition of the contest.

17 SECTION 19. Sections 273.041, 273.042, and 273.043, Election  
18 Code, are amended to read as follows:

19 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
20 investigation of criminal conduct in connection with an election, a  
21 grand jury, on finding probable cause to believe an offense was  
22 committed, may request a district judge of the county served by the  
23 grand jury to order an examination of the voted ballots and the  
24 ballot stubs [~~voted~~] in the election.

25 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
26 grand jury for an examination of voted ballots and ballot stubs, a  
27 district judge may order the custodian of the [~~voted~~] ballots and



1     ballot stubs and the custodian of the keys to the ballot boxes to  
2     deliver the ballot boxes, ~~[and-the]~~ keys, and envelopes to the  
3     grand jury.

4             Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
5     ballots and ballot stubs under this subchapter shall be conducted  
6     in secret before the grand jury.

7             SECTION 20. The secretary of state by rule shall prescribe  
8     any procedures necessary to implement this Act.

9             SECTION 21. This Act takes effect September 1, 1997.

10            SECTION 22. The importance of this legislation and the  
11     crowded condition of the calendars in both houses create an  
12     emergency and an imperative public necessity that the  
13     constitutional rule requiring bills to be read on three several  
14     days in each house be suspended, and this rule is hereby suspended.

# HOUSE ENGROSSMENT

By Danburg, Denny, Madden, Ehrhardt

H.B. No. 330

## A BILL TO BE ENTITLED

### AN ACT

relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and

1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, [AND] BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, [and]  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, [and] ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be [and] placed where they [it] will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Sections 63.010(d) and (e), Election Code, are  
19 amended to read as follows:

20 (d) The presiding judge shall inform a voter of a challenge  
21 and of the issues raised by the challenge. The presiding judge  
22 shall [may] request the [a] voter to present proof of  
23 identification in the form of a personal identification card or  
24 other document bearing the voter's photograph and to execute an  
25 affidavit that states the facts necessary to support the voter's  
26 eligibility to vote. On presentation of the required proof of  
27 identification and affidavit, the presiding judge shall determine

1 the voter's identity. If the voter fails to present the required  
 2 proof of identification, the presiding judge cannot verify the  
 3 voter's identity from the proof presented, or the voter refuses to  
 4 execute an affidavit, the voter may not be accepted for voting, and  
 5 "rejected" shall be entered on the affidavit or, if none, on a  
 6 written statement containing the voter's name and any known  
 7 residence address, and, if applicable, on the list of registered  
 8 voters beside the voter's name. After determining the voter's  
 9 identity, the presiding judge shall return the personal  
 10 identification card or document to the voter~~[,--if--available---A~~  
 11 ~~voter's--failure-to-present-proof-of-identification-does-not-affect~~  
 12 ~~the-voter's-right-to-vote-under-this-section]~~.

13 (e) If a [the] challenged voter whose identity is verified  
 14 executes an affidavit that states the facts necessary to support  
 15 the voter's eligibility to vote, the voter shall be accepted, and  
 16 "sworn" shall be entered on the poll list beside the voter's name.  
 17 If the voter's [~~challenged-voter-does--not--execute--an~~] affidavit  
 18 does not state [~~that--states~~] the facts necessary to support the  
 19 voter's eligibility to vote, the voter may not be accepted for  
 20 voting, and "rejected" shall be entered on the affidavit and, if  
 21 applicable, on the list of registered voters beside the voter's  
 22 name.

23 SECTION 8. Section 64.001, Election Code, is amended to read  
 24 as follows:

25 Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
 26 STUB. (a) After a voter is accepted for voting, the voter shall  
 27 select a ballot, go to a voting station, and prepare the ballot,

1 except as provided by Subsection (b).

2 (b) A voter who executes an affidavit in accordance with  
3 Section 63.010 shall select a ballot with a stub and, before going  
4 to a voting station:

5 (1) unclip the stub and envelope from the ballot;  
6 (2) sign the stub and enclose it in the envelope; and  
7 (3) seal the envelope and give it to an election  
8 officer.

9 (c) The election officer shall deposit the ballot stub  
10 enclosed in its envelope in envelope no. 5.

11 SECTION 9. Section 65.005, Election Code, is amended by  
12 adding Subsection (d) to read as follows:

13 (d) If a ballot with a signed stub is found, the stub shall  
14 be enclosed and sealed in an envelope and deposited in envelope no.  
15 5 before the ballot is examined.

16 SECTION 10. Section 65.010(a), Election Code, is amended to  
17 read as follows:

18 (a) The following ballots may not be counted:

19 (1) a ballot that is not provided to the voter at the  
20 polling place;

21 (2) two or more ballots that are folded together in a  
22 manner indicating that they were folded together when deposited in  
23 the ballot box;

24 (3) a write-in envelope containing a write-in vote  
25 without an attached ballot; [or]

26 (4) a ballot that has not been deposited in the ballot  
27 box used for the deposit of marked ballots; or

1                   (5) a ballot with an unsigned stub.

2           SECTION 11.   Section 66.003, Election Code, is amended to  
3 read as follows:

4           Sec. 66.003.   ENVELOPES   FOR   DISTRIBUTION   OF   RECORDS.

5       (a) Five [~~Four~~] envelopes shall be furnished to each polling place  
6 for use in assembling and distributing the precinct election  
7 records.

8       (b) The envelopes shall be labeled and addressed as follows:

9           (1) "Envelope No. 1," addressed to the presiding  
10 officer of the local canvassing authority;

11          (2) "Envelope No. 2," addressed to the general  
12 custodian of election records;

13          (3) "Envelope No. 3," addressed to the presiding  
14 judge; [and]

15          (4) "Envelope No. 4," addressed to the voter  
16 registrar; and

17          (5) "Envelope No. 5," addressed to the general  
18 custodian of election records.

19       SECTION 12.   Section 66.021(b), Election Code, is amended to  
20 read as follows:

21       (b) The judge shall seal envelopes no. 1, no. 2, [and] no.  
22 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
23 are ready for distribution.

24       SECTION 13.   Subchapter B, Chapter 66, Election Code, is  
25 amended by adding Section 66.0242 to read as follows:

26       Sec. 66.0242.   CONTENTS OF ENVELOPE NO. 5.   Envelope no. 5  
27 must contain the ballot stubs.

1           SECTION 14. Section 66.051(b), Election Code, is amended to  
2 read as follows:

3           (b) The presiding judge shall deliver envelope no. 2,  
4 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
5 in person to the general custodian of election records.

6           SECTION 15. Section 66.058, Election Code, is amended by  
7 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
8 read as follows:

9           (b) The voted ballots and ballot stubs shall be preserved  
10 securely in a locked room in the locked ballot box or sealed  
11 envelope, as applicable, in which they are delivered to the general  
12 custodian of election records. Except as permitted by this code, a  
13 ballot box containing voted ballots or an envelope containing  
14 ballot stubs may not be opened during the preservation period.

15           (c) If during the preservation period an authorized entry is  
16 made into a ballot box containing voted ballots or an envelope  
17 containing ballot stubs, when the purpose for the entry is  
18 fulfilled, the box or envelope shall be relocked or resealed, as  
19 applicable, and the box and key or envelope returned to the  
20 custodian.

21           (d) A custodian of a ballot box containing voted ballots or  
22 an envelope containing ballot stubs commits an offense if, during  
23 the preservation period prescribed by Subsection (a), the  
24 custodian:

25                   (1) makes an unauthorized entry into the box or  
26 envelope; or

27                   (2) fails to prevent another person from handling the



1 box or envelope in an unauthorized manner or from making an  
2 unauthorized entry into the box or envelope.

3 (h) The ballot stubs shall be destroyed after expiration of  
4 the prescribed preservation period, subject to an extension of the  
5 period under Section 1.013. The ballot stubs are confidential  
6 information and are not subject to public inspection before they  
7 are destroyed.

8 SECTION 16. Section 66.059, Election Code, is amended to  
9 read as follows:

10 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

11 (a) On written application by the presiding officer of the local  
12 canvassing authority or the presiding judge of the election  
13 precinct, a district judge of the county in which a ballot box  
14 containing voted ballots or an envelope containing ballot stubs is  
15 in custody may order the box or envelope opened to retrieve an  
16 election record that was erroneously placed in the box or envelope.

17 (b) The district judge shall post a notice of the date,  
18 hour, and place for opening the box or envelope on the bulletin  
19 board used for posting notices of the meetings of the governing  
20 body of the political subdivision served by the general custodian  
21 of election records. The notice must remain posted continuously  
22 for the 24 hours immediately preceding the hour set for opening the  
23 box or envelope.

24 (c) Any interested person may observe the opening of the box  
25 or envelope.

26 (d) The district judge shall issue the orders necessary to  
27 safeguard the contents of a ballot box or envelope opened under

1 this section.

2 SECTION 17. Subchapter A, Chapter 124, Election Code, is  
3 amended by adding Section 124.006 to read as follows:

4 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
5 secretary of state shall prescribe the form of a ballot stub and  
6 ballot for use with a stub and the necessary procedures to  
7 implement the ballot stub system prescribed by Section 52.074 for  
8 use with each voting system used in this state.

9 SECTION 18. Section 221.008, Election Code, is amended to  
10 read as follows:

11 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
12 A tribunal hearing an election contest may cause secured ballot  
13 boxes, envelopes, voting machines, voting devices, or other  
14 equipment used in the election to be unsecured to determine the  
15 correct vote count or any other fact that the tribunal considers  
16 pertinent to a fair and just disposition of the contest.

17 SECTION 19. Sections 273.041, 273.042, and 273.043, Election  
18 Code, are amended to read as follows:

19 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
20 investigation of criminal conduct in connection with an election, a  
21 grand jury, on finding probable cause to believe an offense was  
22 committed, may request a district judge of the county served by the  
23 grand jury to order an examination of the voted ballots and the  
24 ballot stubs [~~voted~~] in the election.

25 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
26 grand jury for an examination of voted ballots and ballot stubs, a  
27 district judge may order the custodian of the [~~voted~~] ballots and

1     ballot stubs and the custodian of the keys to the ballot boxes to  
2     deliver the ballot boxes, ~~[and-the]~~ keys, and envelopes to the  
3     grand jury.

4             Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
5     ballots and ballot stubs under this subchapter shall be conducted  
6     in secret before the grand jury.

7             SECTION 20. The secretary of state by rule shall prescribe  
8     any procedures necessary to implement this Act.

9             SECTION 21. This Act takes effect September 1, 1997.

10            SECTION 22. The importance of this legislation and the  
11     crowded condition of the calendars in both houses create an  
12     emergency and an imperative public necessity that the  
13     constitutional rule requiring bills to be read on three several  
14     days in each house be suspended, and this rule is hereby suspended.

1-1 By: Danburg, et al. (Senate Sponsor - Shapiro) H.B. No. 330  
1-2 (In the Senate - Received from the House April 30, 1997;  
1-3 May 1, 1997, read first time and referred to Committee on State  
1-4 Affairs; May 18, 1997, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 13, Nays 0; May 18, 1997,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 330 By: Shapiro

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the form of the ballot and related procedures in  
1-11 connection with certain voters voting on an affidavit; providing  
1-12 criminal penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 51.005, Election Code, is amended by  
1-15 adding Subsection (c) to read as follows:

1-16 (c) The secretary of state shall prescribe procedures for  
1-17 determining the number of ballot stubs to be provided.

1-18 SECTION 2. Subchapter C, Chapter 52, Election Code, is  
1-19 amended by adding Section 52.074 to read as follows:

1-20 Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The  
1-21 authority responsible for having the official ballot prepared shall  
1-22 have a detached ballot stub prepared as provided by this section  
1-23 for use by a voter who executes an affidavit in accordance with  
1-24 Section 63.010.

1-25 (b) The ballot stub shall be in a form approved by the  
1-26 secretary of state and must include:

1-27 (1) a space for entering the number matching the  
1-28 corresponding ballot number;

1-29 (2) spaces for entering the designation of the nature  
1-30 of the election and the date of the election;

1-31 (3) the instruction: "Sign ballot stub, enclose in  
1-32 envelope, and give to election officer."; and

1-33 (4) a space for the voter's signature.

1-34 SECTION 3. Section 61.005, Election Code, is amended to read  
1-35 as follows:

1-36 Sec. 61.005. SECURITY OF BALLOTS, [AND] BALLOT BOXES, STUBS,  
1-37 AND ENVELOPES. (a) From the time a presiding judge receives the  
1-38 official ballots for an election until the precinct returns for  
1-39 that election have been certified, the presiding judge shall take  
1-40 the precautions necessary to prevent access to the ballots, [and]  
1-41 ballot boxes, ballot stubs, and stub envelopes in a manner not  
1-42 authorized by law.

1-43 (b) The ballots, [and] ballot boxes, ballot stubs, and stub  
1-44 envelopes at a polling place shall be in plain view of at least one  
1-45 election officer from the time the polls open for voting until the  
1-46 precinct returns have been certified.

1-47 (c) A presiding election judge commits an offense if the  
1-48 judge fails to prevent another person from handling a ballot box  
1-49 containing voters' marked ballots or an envelope containing voters'  
1-50 signed ballot stubs in an unauthorized manner or from making an  
1-51 unauthorized entry into the ballot box or envelope. An offense  
1-52 under this subsection is a Class A misdemeanor.

1-53 SECTION 4. Section 62.006, Election Code, is amended to read  
1-54 as follows:

1-55 Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
1-56 BALLOTS AND STUBS. The ballot box to be used by the voters to  
1-57 deposit marked ballots shall be locked. The ballot box and  
1-58 envelope no. 5 shall be [and] placed where they [it] will be in  
1-59 plain view of the election officers, watchers, and persons waiting  
1-60 to vote.

1-61 SECTION 5. Chapter 62, Election Code, is amended by adding  
1-62 Section 62.0081 to read as follows:

1-63 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
1-64 The presiding judge shall enter on each ballot stub to be used at

the polling place the same number that appears on the corresponding ballot, the designation of the nature of the election, and the date of the election.

(b) The preparation of ballot stubs need not be completed before the polls open, but an unprepared stub may not be made available for selection by the voters.

(c) The presiding judge shall clip the ballot stub and envelope for its enclosure to the corresponding ballot.

SECTION 6. Section 62.009, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The ballots with stubs shall be placed separately from the regular ballots.

SECTION 7. Section 63.008, Election Code, is amended to read as follows:

Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST.

(a) A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter [he] is offering to vote, shall be accepted for voting if the voter executes an affidavit stating that the voter [he] does not have the voter's [his] voter registration certificate in the voter's [his] possession at the polling place at the time of offering to vote and:

(1) the voter presents proof of identification in a form described by Section 63.0101; or

(2) the affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter.

(b) If the requirements prescribed by Subsection (a) are not met, the voter may not be accepted for voting, and an election officer shall indicate beside the voter's name on the list of registered voters that the voter was rejected under this section.

SECTION 8. Section 63.009, Election Code, is amended to read as follows:

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.

(a) Except as provided by Subsection (b), a [A] voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for voting if[:

~~[1]--an--election--officer--can--determine--from--the--voter registrar--that--the--person--is--a--registered--voter--of--the--county,--and the--voter--executes--the--affidavits--required--by--Sections--63.007--and 63.008;--or~~

[2] the voter presents proof of identification and executes an affidavit in accordance with Section 63.010.

(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county, the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section. After the voter is accepted under this subsection [Subsection-(a){1}], an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 9. Sections 63.010(d) and (e), Election Code, are amended to read as follows:

(d) The presiding judge shall inform a voter of a challenge and of the issues raised by the challenge. The presiding judge shall [may] request the [a] voter to present proof of identification in a form described by Section 63.0101 and to execute an affidavit that states the facts necessary to support the voter's eligibility to vote. On presentation of the required proof of identification and affidavit, the presiding judge shall determine the voter's identity. If the voter fails to present the required proof of identification, the presiding judge cannot verify the voter's identity from the proof presented, or the voter refuses to execute an affidavit, the voter may not be accepted for voting, and an election officer shall indicate on the affidavit or, if none, on a written statement containing the voter's name and any

known residence address, and, if applicable, on the list of registered voters beside the voter's name that the voter was rejected under this section. After determining the voter's identity, the presiding judge shall return the documentation of proof to the voter~~[--if-available--A-voter's--failure--to--present proof--of--identification--does--not--affect--the--voter's--right--to--vote under--this--section]~~.

(e) If a [the] challenged voter whose identity is verified executes an affidavit that states the facts necessary to support the voter's eligibility to vote, the voter shall be accepted, and "sworn" shall be entered on the poll list beside the voter's name. If the voter's ~~[challenged-voter--does--not--execute--an]~~ affidavit does not state ~~[that--states]~~ the facts necessary to support the voter's eligibility to vote, the voter may not be accepted for voting, and an election officer ~~["rejected"]~~ shall indicate on the affidavit and, if applicable, ~~[be--entered]~~ on the list of registered voters beside the voter's name that the voter was rejected under this section.

SECTION 10. Chapter 63, Election Code, is amended by adding Section 63.0101 to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is acceptable as proof of identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;

(2) a form of identification containing the person's photograph that establishes the person's identity;

(3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship papers issued to the person;

(5) a United States passport issued to the person;

(6) pre-printed checks containing the person's name that are issued for a financial institution doing business in this state;

(7) official mail addressed to the person by name from a governmental entity;

(8) two other forms of identification that establish the person's identity; or

(9) any other form of identification prescribed by the secretary of state.

SECTION 11. Section 64.001, Election Code, is amended to read as follows:

Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF STUB. (a) After a voter is accepted for voting, the voter shall select a ballot, go to a voting station, and prepare the ballot, except as provided by Subsection (b).

(b) A voter who executes an affidavit in accordance with Section 63.010 shall select a ballot with a stub and, before going to a voting station:

(1) unclip the stub and envelope from the ballot;  
(2) sign the stub and enclose it in the envelope; and  
(3) seal the envelope and give it to an election officer.

(c) The election officer shall deposit the ballot stub enclosed in its envelope in envelope no. 5.

SECTION 12. Section 65.005, Election Code, is amended by adding Subsection (d) to read as follows:

(d) If a ballot with a signed stub is found, the stub shall be enclosed and sealed in an envelope and deposited in envelope no. 5 before the ballot is examined.

SECTION 13. Section 65.010(a), Election Code, is amended to read as follows:

(a) The following ballots may not be counted:  
(1) a ballot that is not provided to the voter at the polling place;

(2) two or more ballots that are folded together in a manner indicating that they were folded together when deposited in the ballot box;

(3) a write-in envelope containing a write-in vote without an attached ballot; ~~or~~

(4) a ballot that has not been deposited in the ballot box used for the deposit of marked ballots; or

(5) a ballot with an unsigned stub.

SECTION 14. Section 66.003, Election Code, is amended to read as follows:

Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.  
(a) Five ~~Four~~ envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.

(b) The envelopes shall be labeled and addressed as follows:

(1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;

(2) "Envelope No. 2," addressed to the general custodian of election records;

(3) "Envelope No. 3," addressed to the presiding judge; ~~and~~

(4) "Envelope No. 4," addressed to the voter registrar; and

(5) "Envelope No. 5," addressed to the general custodian of election records.

SECTION 15. Section 66.021(b), Election Code, is amended to read as follows:

(b) The judge shall seal envelopes no. 1, no. 2, ~~and~~ no. 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution.

SECTION 16. Subchapter B, Chapter 66, Election Code, is amended by adding Section 66.0242 to read as follows:

Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5 must contain the ballot stubs.

SECTION 17. Section 66.051(b), Election Code, is amended to read as follows:

(b) The presiding judge shall deliver envelope no. 2, envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.

SECTION 18. Section 66.058, Election Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (h) to read as follows:

(b) The voted ballots and ballot stubs shall be preserved securely in a locked room in the locked ballot box or sealed envelope, as applicable, in which they are delivered to the general custodian of election records. Except as permitted by this code, a ballot box containing voted ballots or an envelope containing ballot stubs may not be opened during the preservation period.

(c) If during the preservation period an authorized entry is made into a ballot box containing voted ballots or an envelope containing ballot stubs, when the purpose for the entry is fulfilled, the box or envelope shall be relocked or resealed, as applicable, and the box and key or envelope returned to the custodian.

(d) A custodian of a ballot box containing voted ballots or an envelope containing ballot stubs commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:

(1) makes an unauthorized entry into the box or envelope; or

(2) fails to prevent another person from handling the box or envelope in an unauthorized manner or from making an unauthorized entry into the box or envelope.

(h) The ballot stubs shall be destroyed after expiration of the prescribed preservation period, subject to an extension of the period under Section 1.013. The ballot stubs are confidential information and are not subject to public inspection before they are destroyed.

SECTION 19. Section 66.059, Election Code, is amended to

5-1 read as follows:

5-2 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.  
 5-3 (a) On written application by the presiding officer of the local  
 5-4 canvassing authority or the presiding judge of the election  
 5-5 precinct, a district judge of the county in which a ballot box  
 5-6 containing voted ballots or an envelope containing ballot stubs is  
 5-7 in custody may order the box or envelope opened to retrieve an  
 5-8 election record that was erroneously placed in the box or envelope.

5-9 (b) The district judge shall post a notice of the date,  
 5-10 hour, and place for opening the box or envelope on the bulletin  
 5-11 board used for posting notices of the meetings of the governing  
 5-12 body of the political subdivision served by the general custodian  
 5-13 of election records. The notice must remain posted continuously  
 5-14 for the 24 hours immediately preceding the hour set for opening the  
 5-15 box or envelope.

5-16 (c) Any interested person may observe the opening of the box  
 5-17 or envelope.

5-18 (d) The district judge shall issue the orders necessary to  
 5-19 safeguard the contents of a ballot box or envelope opened under  
 5-20 this section.

5-21 SECTION 20. Subchapter A, Chapter 124, Election Code, is  
 5-22 amended by adding Section 124.006 to read as follows:

5-23 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
 5-24 secretary of state shall prescribe the form of a ballot stub and  
 5-25 ballot for use with a stub and the necessary procedures to  
 5-26 implement the ballot stub system prescribed by Section 52.074 for  
 5-27 use with each voting system used in this state.

5-28 SECTION 21. Section 221.008, Election Code, is amended to  
 5-29 read as follows:

5-30 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
 5-31 A tribunal hearing an election contest may cause secured ballot  
 5-32 boxes, envelopes, voting machines, voting devices, or other  
 5-33 equipment used in the election to be unsecured to determine the  
 5-34 correct vote count or any other fact that the tribunal considers  
 5-35 pertinent to a fair and just disposition of the contest.

5-36 SECTION 22. Sections 273.041, 273.042, and 273.043, Election  
 5-37 Code, are amended to read as follows:

5-38 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
 5-39 investigation of criminal conduct in connection with an election, a  
 5-40 grand jury, on finding probable cause to believe an offense was  
 5-41 committed, may request a district judge of the county served by the  
 5-42 grand jury to order an examination of the voted ballots and the  
 5-43 ballot stubs [voted] in the election.

5-44 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
 5-45 grand jury for an examination of voted ballots and ballot stubs, a  
 5-46 district judge may order the custodian of the [voted] ballots and  
 5-47 ballot stubs and the custodian of the keys to the ballot boxes to  
 5-48 deliver the ballot boxes, [and--the] keys, and envelopes to the  
 5-49 grand jury.

5-50 Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
 5-51 ballots and ballot stubs under this subchapter shall be conducted  
 5-52 in secret before the grand jury.

5-53 SECTION 23. The secretary of state by rule shall prescribe  
 5-54 any procedures necessary to implement this Act.

5-55 SECTION 24. This Act takes effect September 1, 1997.

5-56 SECTION 25. The importance of this legislation and the  
 5-57 crowded condition of the calendars in both houses create an  
 5-58 emergency and an imperative public necessity that the  
 5-59 constitutional rule requiring bills to be read on three several  
 5-60 days in each house be suspended, and this rule is hereby suspended.

5-61 \* \* \* \* \*



FAVORABLY AS SUBSTITUTED  
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HP HCR HJR. 330  
By Shapiro  
(Author/Senate Sponsor)  
5-18-97  
(date)

We, your Committee on STATE AFFAIRS, to which was referred the attached measure,  
have on 5/15/97, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed  
☒ the caption remained the same as original measure  
☐ the caption changed with adoption of the substitute  
☐ do pass as substituted, and be ordered not printed  
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	<input checked="" type="checkbox"/>			
Senator Nixon, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Cain	<input checked="" type="checkbox"/>			
Senator Carona	<input checked="" type="checkbox"/>			
Senator Ellis	<input checked="" type="checkbox"/>			
Senator Fraser	<input checked="" type="checkbox"/>			
Senator Gallegos	<input checked="" type="checkbox"/>			
Senator Galloway	<input checked="" type="checkbox"/>			
Senator Lindsay	<input checked="" type="checkbox"/>			
Senator Luna	<input checked="" type="checkbox"/>			
Senator Nelson	<input checked="" type="checkbox"/>			
Senator Shapiro	<input checked="" type="checkbox"/>			
Senator Whitmire	<input checked="" type="checkbox"/>			
TOTAL VOTES	13	0	0	0

COMMITTEE ACTION

- ☒ S260 Considered in public hearing  
☒ S270 Testimony taken

Kelly C. Gichart  
COMMITTEE CLERK

K. O. [Signature]  
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute  
Retain one copy of this form for Committee files

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 330  
By: Danburg (Shapiro)  
State Affairs  
5-17-97

Committee Report (Substituted)

### **DIGEST**

Currently, a person who goes to the polls without a voter registration card and whose name does not appear on the voter rolls, can cast a ballot by signing an affidavit that states the person is entitled to take part in the election. After the election, the sworn affidavits go to the county's voter registrar, who checks to see if the voters were really qualified. There is no election law that allows for a separate ballot box for the affidavit ballot. This bill would create a separate ballot box for the sworn affidavits stubs collected at an election and provides penalties for election fraud.

### **PURPOSE**

As proposed, C.S.H.B. 330 sets forth certain procedures for affidavits signed by voters at an election and provides criminal penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the secretary of state in SECTIONS 1, 20, and 23 (Sec. 51.005(c) and Sec. 124.006, Election Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.005, Election Code, by adding Subsection (c), to require the secretary of state to prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Amends Chapter 52C, Election Code, by adding Section 52.074, as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. Requires the authority responsible for having the official ballot prepared to have a detached ballot stub prepared as provided by this section for use by certain voters. Requires the ballot to be in a form approved by the secretary of state and to include certain information.

SECTION 3. Amends Section 61.005, Election Code, as follows:

Sec. 61.005. New heading: SECURITY OF BALLOTS, BALLOT BOXES, STUBS, AND ENVELOPES. Requires the presiding judge to take the precautions necessary to prevent access to the ballot stubs and stub envelopes in a manner not authorized by law. Makes conforming changes.

SECTION 4. Amends Section 62.006, Election Code, as follows:

Sec. 62.006. New heading: PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED BALLOTS AND STUBS. Requires the ballot box and envelope no. 5 to be placed where they will be in plain view of the election officers, watchers, and persons waiting to vote.

SECTION 5. Amends Chapter 62, Election Code, by adding Section 62.0081, as follows:

Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. Sets forth certain duties for a presiding judge regarding the use and preparation of ballot stubs.

SECTION 6. Amends Section 62.009, Election Code, by adding Subsection (c), to require the ballots with stubs to be placed separately from the regular ballots.

SECTION 7. Amends Section 63.008, Election Code, to require a voter to be accepted for voting if the voter presents proof of identification in a form described by Section 63.0101 or an affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter. Prohibits the voter from being accepted for voting if the requirements prescribed by Subsection (a) are not met and an election officer shall indicate beside the voter's name on the list of the registered voters that the voter was rejected under this section. Makes inclusive language changes.

SECTION 8. Amends Section 63.009, Election Code, to provide that the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section if an election officer can determine from the voter registrar that the person is a registered voter of the county.

SECTION 9. Amends Sections 63.010(d) and (e), Election Code, to require the presiding judge to request the voter to present proof of identification in a form described by Section 63.0101 and to execute an affidavit that state the facts to support the voter's eligibility to vote. Requires the presiding judge to determine the voter's identity in a certain manner. Requires an election officer to indicate on the affidavit or if none, a written statement containing certain information, and, if applicable, on the list of registered voters beside the voter's name, that the voter was rejected under this section. Makes conforming and nonsubstantive changes.

SECTION 10. Amends Chapter 63, Election Code, by adding Section 63.0101, as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. Sets forth provisions regarding the acceptable documentation to be used as proof of identification under this chapter.

SECTION 11. Amends Section 64.001, Election Code, as follows:

Sec. 64.001. New heading: VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF STUB. Requires a voter who executes an affidavit in accordance with Section 63.010 to select a ballot with a stub and perform certain other functions before going to a voting station. Requires the election officer to deposit the ballot stub enclosed in its envelope in envelope no. 5. Makes a conforming change.

SECTION 12. Amends Section 65.005, Election Code, by adding Subsection (d), to require a ballot stub with a signed stub to be enclosed and sealed in an envelope and deposited in envelope no. 5 before the ballot is examined if the stub is found.

SECTION 13. Amends Section 65.010(a), Election Code, to prohibit a ballot with an unsigned stub from being counted.

SECTION 14. Amends Section 66.003, Election Code, to require five envelopes to be furnished to each polling place for use in assembling and distributing the precinct election records. Requires envelope no. 5 to be labeled and addressed in a certain manner.

SECTION 15. Amends Section 66.021(b), Election Code, to make a conforming change.

SECTION 16. Amends Chapter 66B, Election Code, by adding Section 66.0242, as follows:

Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Requires envelope no. 5 to contain the ballot stubs.

SECTION 17. Amends Section 66.051(b), Election Code, to make a conforming change.

SECTION 18. Amends Section 66.058, Election Code, by amending Subsections (b)-(d) and

adding Subsection (h), to require the ballot stubs to be destroyed after expiration of the prescribed preservation period, subject to an extension of the period under Section 1.013, Provides that the ballot stubs are confidential information and are not subject to public inspection before they are destroyed. Makes conforming and nonsubstantive changes.

SECTION 19. Amends Section 66.059, Election Code, to make conforming changes.

SECTION 20. Amends Chapter 124A, Election Code, by adding Section 124.006, as follows:

Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. Requires the secretary of state to prescribe the form of a ballot stub and ballot for use with a stub and the necessary procedures to implement the ballot stub system prescribed by Section 52.074 for use with each voting system used in this state.

SECTION 21. Amends Section 221.008, Election Code, to make conforming changes.

SECTION 22. Amends Sections 273.041, 273.042, and 273.043, Election Code, to make conforming and nonsubstantive changes.

SECTION 23. Requires the secretary of state, by rule, to prescribe any procedures necessary to implement this Act.

SECTION 24. Effective date: September 1, 1997.

SECTION 25. Emergency clause.

#### **SUMMARY OF COMMITTEE CHANGES**

Adds new SECTIONS 7 and 8 and rennumbers subsequent sections accordingly.

#### **SECTION 7.**

Amends Section 63.008, Election Code, to provide that a voter who does not present a voter registration certificate, but presents proof of identification in a form described by Section 63.0101 or an affidavit signed by certain persons, to be allowed to vote. Prohibits the voter from being accepted for voting in certain situations and requires election officers to indicate beside the voter's name on the list of registered voters that the voter was rejected. Makes inclusive language changes.

#### **SECTION 8.**

Amends Section 63.009, Election Code, to provide that the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section. Makes conforming and nonsubstantive changes.

#### **SECTION 9.**

Amends Sections 63.010(d) and (e), Election Code, to require the presiding judge to request the voter to present proof of identification that states the facts necessary to support the voter's eligibility to vote. Makes a conforming change.

Adds new SECTION 10 and rennumbers existing sections accordingly.

Amends Chapter 63, Election Code, to set forth provisions regarding certain documentation which is considered to be acceptable as proof of identification under this chapter.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE  
75th Regular Session**

**May 17, 1997**

To: Honorable Kenneth Armbrister, Chair  
Committee on State Affairs  
Senate  
Austin, Texas

IN RE: House Bill No. 330,  
Committee Report 2nd House,  
Substituted  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 (Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

**Biennial Net Impact to General Revenue Funds by HB330-Committee Report 2nd House,  
Substituted**

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill would amend the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be  $\$15.10 \times 20,394 \text{ precincts} = \$307,949.40$ .

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

**Five Year Impact:**

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 0001
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

### **Net Impact on General Revenue Related Funds:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, JD, PE, JC

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

May 5, 1997

To: Honorable Kenneth Armbrister, Chair  
Committee on State Affairs  
Senate  
Austin, Texas

IN RE: House Bill No. 330, As  
Engrossed  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 ( Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

**Biennial Net Impact to General Revenue Funds by HB330-As Engrossed**

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill would amend the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be \$15.10 x 20,394 precincts = \$307,949.40.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

**Five Year Impact:**

Fiscal Year

Probable Savings/(Cost) from General  
Revenue Fund

	0001
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

### Net Impact on General Revenue Related Funds:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, JD, PE, JC



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

February 16, 1997

To: Honorable Debra Danburg, Chair  
Committee on Elections  
House  
Austin, Texas

IN RE: House Bill No. 330  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 (Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

---

**Biennial Net Impact to General Revenue Funds by HB330-As Introduced**

---

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

---

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill amends the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be \$15.10 x 20,394 precincts = \$307,949.40.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

#### Five Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 0001
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

#### Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, PE, JC

WITNESS LIST

HB 330  
SENATE COMMITTEE REPORT  
State Affairs Committee

May 15, 1997 - 1:30P

For: DeBeauvoir, Dana (Co. Clerk's Leg Cmte.), Austin  
Sherbet, Bruce (TX Assc Elections Admin), Dallas  
Sirvello, III, Tony (Harris Co Clerk's Offic), Houston  
On: Nickless, Melinda (Sec. of State's Office), Austin

Registering, but not testifying:

For: Collins, Mary Ann (TX Republican Party), Dallas  
McDonald, Steve (TX Democratic Party), Austin

# REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN  
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 330, by: Shapiro,  
(Bill No.) (Author/Sponsor)  
was heard by the State Affairs Committee on 5/15, 1997,  
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Kelly C. Gilbert  
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM AND <sup>one (1) copy</sup> ~~TEN (10) COPIES~~ OF YOUR BILL/RESOLUTION  
(COMMITTEE PRINTED VERSION) MUST BE DELIVERED TO THE ADMINISTRATION COMMITTEE  
OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS WILL BE ANNOUNCED ON A REGULAR  
BASIS.

ADOPTED

MAY 26 1997

*Letty Ling*  
Secretary of the Senate

11. *Francis Kapin*

By \_\_\_\_\_  
Substitute the following for H B. No. 330:

H B. No. 330

By *Francis Kapin*

C.S. H B. No. 330

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the form of the ballot and related procedures in  
3 connection with certain voters voting on an affidavit; providing  
4 criminal penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 51.005, Election Code, is amended by  
7 adding Subsection (c) to read as follows:

8 (c) The secretary of state shall prescribe procedures for  
9 determining the number of ballot stubs to be provided.

10 SECTION 2. Subchapter C, Chapter 52, Election Code, is  
11 amended by adding Section 52.074 to read as follows:

12 Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The  
13 authority responsible for having the official ballot prepared shall  
14 have a detached ballot stub prepared as provided by this section  
15 for use by a voter who executes an affidavit in accordance with  
16 Section 63.010.

17 (b) The ballot stub shall be in a form approved by the  
18 secretary of state and must include:

19 (1) a space for entering the number matching the  
20 corresponding ballot number;

21 (2) spaces for entering the designation of the nature  
22 of the election and the date of the election;

23 (3) the instruction: "Sign ballot stub, enclose in  
24 envelope, and give to election officer."; and

1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, [AND] BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, [and]  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, [and] ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be [and] placed where they [it] will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Section 63.008, Election Code, is amended to read  
19 as follows:

20 Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST.  
21 (a) A voter who does not present a voter registration certificate  
22 when offering to vote, but whose name is on the list of registered  
23 voters for the precinct in which the voter [he] is offering to  
24 vote, shall be accepted for voting if the voter executes an  
25 affidavit stating that the voter [he] does not have the voter's  
26 [his] voter registration certificate in the voter's [his]  
27 possession at the polling place at the time of offering to vote

1       and:

2                   (1) the voter presents proof of identification in a  
3       form described by Section 63.0101; or

4                   (2) the affidavit is also signed by a person who is  
5       working at the polling place and who attests to the identity of the  
6       voter.

7           (b) If the requirements prescribed by Subsection (a) are  
8       not met, the voter may not be accepted for voting, and an election  
9       officer shall indicate beside the voter's name on the list of  
10       registered voters that the voter was rejected under this section.

11           SECTION 8. Section 63.009, Election Code, is amended to read  
12       as follows:

13           Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.

14       (a) Except as provided by Subsection (b), a [A] voter who does not  
15       present a voter registration certificate when offering to vote, and  
16       whose name is not on the list of registered voters for the precinct  
17       in which the voter is offering to vote, shall be accepted for  
18       voting if[+]

19                   ~~[{1}--an-election-officer-can-determine-from-the--voter~~  
20       ~~registrar--that-the-person-is-a-registered-voter-of-the-county,--and~~  
21       ~~the-voter-executes-the-affidavits-required-by-Sections--63.007--and~~  
22       ~~63.008,--or~~

23                   [{2}] the voter presents proof of identification and  
24       executes an affidavit in accordance with Section 63.010.

25           (b) If an election officer can determine from the voter  
26       registrar that the person is a registered voter of the county, the  
27       affidavits required by Sections 63.007 and 63.008 are substituted



1 for the affidavit required by Section 63.010 in complying with that  
2 section. After the voter is accepted under this subsection  
3 [Subsection-(a){(1)}], an election officer shall also indicate beside  
4 the voter's name on the poll list that the voter was accepted under  
5 this section.

6 SECTION 9. Sections 63.010(d) and (e), Election Code, are  
7 amended to read as follows:

8 (d) The presiding judge shall inform a voter of a challenge  
9 and of the issues raised by the challenge. The presiding judge  
10 shall [may] request the [a] voter to present proof of  
11 identification in a form described by Section 63.0101 and to  
12 execute an affidavit that states the facts necessary to support the  
13 voter's eligibility to vote. On presentation of the required proof  
14 of identification and affidavit, the presiding judge shall  
15 determine the voter's identity. If the voter fails to present the  
16 required proof of identification, the presiding judge cannot verify  
17 the voter's identity from the proof presented, or the voter refuses  
18 to execute an affidavit, the voter may not be accepted for voting,  
19 and an election officer shall indicate on the affidavit or, if  
20 none, on a written statement containing the voter's name and any  
21 known residence address, and, if applicable, on the list of  
22 registered voters beside the voter's name that the voter was  
23 rejected under this section. After determining the voter's  
24 identity, the presiding judge shall return the documentation of  
25 proof to the voter~~[,--if-available--A-voter's-failure-to-present~~  
26 ~~proof-of-identification-does-not-affect-the-voter's-right--to--vote~~  
27 ~~under-this-section]~~.

1           (e) If a ~~[the]~~ challenged voter whose identity is verified  
2 executes an affidavit that states the facts necessary to support  
3 the voter's eligibility to vote, the voter shall be accepted, and  
4 "sworn" shall be entered on the poll list beside the voter's name.  
5 If the voter's ~~[challenged--voter-does-not-execute-an]~~ affidavit  
6 does not state ~~[that-states]~~ the facts necessary to support the  
7 voter's eligibility to vote, the voter may not be accepted for  
8 voting, and an election officer ~~["rejected"]~~ shall indicate on the  
9 affidavit and, if applicable, ~~[be--entered]~~ on the list of  
10 registered voters beside the voter's name that the voter was  
11 rejected under this section.

12           SECTION 10. Chapter 63, Election Code, is amended by adding  
13 Section 63.0101 to read as follows:

14           Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The  
15 following documentation is acceptable as proof of identification  
16 under this chapter:

17               (1) a driver's license or personal identification card  
18 issued to the person by the Department of Public Safety or a  
19 similar document issued to the person by an agency of another  
20 state, regardless of whether the license or card has expired;

21               (2) a form of identification containing the person's  
22 photograph that establishes the person's identity;

23               (3) a birth certificate or other document confirming  
24 birth that is admissible in a court of law and establishes the  
25 person's identity;

26               (4) United States citizenship papers issued to the  
27 person;

- 1                   (5) a United States passport issued to the person;  
2                   (6) pre-printed checks containing the person's name  
3 that are issued for a financial institution doing business in this  
4 state;  
5                   (7) official mail addressed to the person by name from  
6 a governmental entity;  
7                   (8) two other forms of identification that establish  
8 the person's identity; or  
9                   (9) any other form of identification prescribed by the  
10 secretary of state.

11           SECTION 11. Section 64.001, Election Code, is amended to  
12 read as follows:

13           Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
14 STUB. (a) After a voter is accepted for voting, the voter shall  
15 select a ballot, go to a voting station, and prepare the ballot,  
16 except as provided by Subsection (b).

17           (b) A voter who executes an affidavit in accordance with  
18 Section 63.010 shall select a ballot with a stub and, before going  
19 to a voting station:

- 20                   (1) unclip the stub and envelope from the ballot;  
21                   (2) sign the stub and enclose it in the envelope; and  
22                   (3) seal the envelope and give it to an election  
23 officer.

24           (c) The election officer shall deposit the ballot stub  
25 enclosed in its envelope in envelope no. 5.

26           SECTION 12. Section 65.005, Election Code, is amended by  
27 adding Subsection (d) to read as follows:

1           (d) If a ballot with a signed stub is found, the stub shall  
2 be enclosed and sealed in an envelope and deposited in envelope no.  
3 5 before the ballot is examined.

4           SECTION 13. Section 65.010(a), Election Code, is amended to  
5 read as follows:

6           (a) The following ballots may not be counted:

7                   (1) a ballot that is not provided to the voter at the  
8 polling place;

9                   (2) two or more ballots that are folded together in a  
10 manner indicating that they were folded together when deposited in  
11 the ballot box;

12                   (3) a write-in envelope containing a write-in vote  
13 without an attached ballot; ~~[or]~~

14                   (4) a ballot that has not been deposited in the ballot  
15 box used for the deposit of marked ballots; or

16                   (5) a ballot with an unsigned stub.

17           SECTION 14. Section 66.003, Election Code, is amended to  
18 read as follows:

19           Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.

20           (a) Five ~~[Four]~~ envelopes shall be furnished to each polling place  
21 for use in assembling and distributing the precinct election  
22 records.

23           (b) The envelopes shall be labeled and addressed as follows:

24                   (1) "Envelope No. 1," addressed to the presiding  
25 officer of the local canvassing authority;

26                   (2) "Envelope No. 2," addressed to the general  
27 custodian of election records;

1                   (3) "Envelope No. 3," addressed to the presiding  
2 judge; ~~and~~

3                   (4) "Envelope No. 4," addressed to the voter  
4 registrar; and

5                   (5) "Envelope No. 5," addressed to the general  
6 custodian of election records.

7           SECTION 15. Section 66.021(b), Election Code, is amended to  
8 read as follows:

9           (b) The judge shall seal envelopes no. 1, no. 2, ~~and~~ no.  
10 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
11 are ready for distribution.

12           SECTION 16. Subchapter B, Chapter 66, Election Code, is  
13 amended by adding Section 66.0242 to read as follows:

14           Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
15 must contain the ballot stubs.

16           SECTION 17. Section 66.051(b), Election Code, is amended to  
17 read as follows:

18           (b) The presiding judge shall deliver envelope no. 2,  
19 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
20 in person to the general custodian of election records.

21           SECTION 18. Section 66.058, Election Code, is amended by  
22 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
23 read as follows:

24           (b) The voted ballots and ballot stubs shall be preserved  
25 securely in a locked room in the locked ballot box or sealed  
26 envelope, as applicable, in which they are delivered to the general  
27 custodian of election records. Except as permitted by this code, a

1 ballot box containing voted ballots or an envelope containing  
2 ballot stubs may not be opened during the preservation period.

3 (c) If during the preservation period an authorized entry is  
4 made into a ballot box containing voted ballots or an envelope  
5 containing ballot stubs, when the purpose for the entry is  
6 fulfilled, the box or envelope shall be relocked or resealed, as  
7 applicable, and the box and key or envelope returned to the  
8 custodian.

9 (d) A custodian of a ballot box containing voted ballots or  
10 an envelope containing ballot stubs commits an offense if, during  
11 the preservation period prescribed by Subsection (a), the  
12 custodian:

13 (1) makes an unauthorized entry into the box or  
14 envelope; or

15 (2) fails to prevent another person from handling the  
16 box or envelope in an unauthorized manner or from making an  
17 unauthorized entry into the box or envelope.

18 (h) The ballot stubs shall be destroyed after expiration of  
19 the prescribed preservation period, subject to an extension of the  
20 period under Section 1.013. The ballot stubs are confidential  
21 information and are not subject to public inspection before they  
22 are destroyed.

23 SECTION 19. Section 66.059, Election Code, is amended to  
24 read as follows:

25 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

26 (a) On written application by the presiding officer of the local  
27 canvassing authority or the presiding judge of the election

1 precinct, a district judge of the county in which a ballot box  
2 containing voted ballots or an envelope containing ballot stubs is  
3 in custody may order the box or envelope opened to retrieve an  
4 election record that was erroneously placed in the box or envelope.

5 (b) The district judge shall post a notice of the date,  
6 hour, and place for opening the box or envelope on the bulletin  
7 board used for posting notices of the meetings of the governing  
8 body of the political subdivision served by the general custodian  
9 of election records. The notice must remain posted continuously  
10 for the 24 hours immediately preceding the hour set for opening the  
11 box or envelope.

12 (c) Any interested person may observe the opening of the box  
13 or envelope.

14 (d) The district judge shall issue the orders necessary to  
15 safeguard the contents of a ballot box or envelope opened under  
16 this section.

17 SECTION 20. Subchapter A, Chapter 124, Election Code, is  
18 amended by adding Section 124.006 to read as follows:

19 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
20 secretary of state shall prescribe the form of a ballot stub and  
21 ballot for use with a stub and the necessary procedures to  
22 implement the ballot stub system prescribed by Section 52.074 for  
23 use with each voting system used in this state.

24 SECTION 21. Section 221.008, Election Code, is amended to  
25 read as follows:

26 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
27 A tribunal hearing an election contest may cause secured ballot

boxes, envelopes, voting machines, voting devices, or other equipment used in the election to be unsecured to determine the correct vote count or any other fact that the tribunal considers pertinent to a fair and just disposition of the contest.

SECTION 22. Sections 273.041, 273.042, and 273.043, Election Code, are amended to read as follows:

Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the investigation of criminal conduct in connection with an election, a grand jury, on finding probable cause to believe an offense was committed, may request a district judge of the county served by the grand jury to order an examination of the voted ballots and the ballot stubs [~~voted~~] in the election.

Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a grand jury for an examination of voted ballots and ballot stubs, a district judge may order the custodian of the [~~voted~~] ballots and ballot stubs and the custodian of the keys to the ballot boxes to deliver the ballot boxes, [~~and-the~~] keys, and envelopes to the grand jury.

Sec. 273.043. CONDUCT OF EXAMINATION. The examination of ballots and ballot stubs under this subchapter shall be conducted in secret before the grand jury.

SECTION 23. The secretary of state by rule shall prescribe any procedures necessary to implement this Act.

SECTION 24. This Act takes effect September 1, 1997.

SECTION 25. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the



1 constitutional rule requiring bills to be read on three several  
2 days in each house be suspended, and this rule is hereby suspended.

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By Danburg, Denny, Madden, Ehrhardt

H.B. No. 330

A BILL TO BE ENTITLED

AN ACT

relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and

1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, [AND] BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, [and]  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, [and] ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be [and] placed where they [it] will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Sections 63.010(d) and (e), Election Code, are  
19 amended to read as follows:

20 (d) The presiding judge shall inform a voter of a challenge  
21 and of the issues raised by the challenge. The presiding judge  
22 shall ~~[may]~~ request the ~~[a]~~ voter to present proof of  
23 identification in the form of a personal identification card or  
24 other document bearing the voter's photograph and to execute an  
25 affidavit that states the facts necessary to support the voter's  
26 eligibility to vote. On presentation of the required proof of  
27 identification and affidavit, the presiding judge shall determine

1     the voter's identity. If the voter fails to present the required  
 2     proof of identification, the presiding judge cannot verify the  
 3     voter's identity from the proof presented, or the voter refuses to  
 4     execute an affidavit, the voter may not be accepted for voting, and  
 5     "rejected" shall be entered on the affidavit or, if none, on a  
 6     written statement containing the voter's name and any known  
 7     residence address, and, if applicable, on the list of registered  
 8     voters beside the voter's name. After determining the voter's  
 9     identity, the presiding judge shall return the personal  
 10    identification card or document to the voter~~[,--if--available,---A~~  
 11    ~~voter's--failure-to-present-proof-of-identification-does-not-affect~~  
 12    ~~the-voter's-right-to-vote-under-this-section]~~.

13         (e) If a ~~[the]~~ challenged voter whose identity is verified  
 14     executes an affidavit that states the facts necessary to support  
 15     the voter's eligibility to vote, the voter shall be accepted, and  
 16     "sworn" shall be entered on the poll list beside the voter's name.  
 17     If the voter's ~~[challenged-voter-does--not--execute--an]~~ affidavit  
 18     does not state ~~[that--states]~~ the facts necessary to support the  
 19     voter's eligibility to vote, the voter may not be accepted for  
 20     voting, and "rejected" shall be entered on the affidavit and, if  
 21     applicable, on the list of registered voters beside the voter's  
 22     name.

23         SECTION 8. Section 64.001, Election Code, is amended to read  
 24     as follows:

25         Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
 26     STUB. (a) After a voter is accepted for voting, the voter shall  
 27     select a ballot, go to a voting station, and prepare the ballot,

1 except as provided by Subsection (b).

2 (b) A voter who executes an affidavit in accordance with  
3 Section 63.010 shall select a ballot with a stub and, before going  
4 to a voting station:

5 (1) unclip the stub and envelope from the ballot;  
6 (2) sign the stub and enclose it in the envelope; and  
7 (3) seal the envelope and give it to an election  
8 officer.

9 (c) The election officer shall deposit the ballot stub  
10 enclosed in its envelope in envelope no. 5.

11 SECTION 9. Section 65.005, Election Code, is amended by  
12 adding Subsection (d) to read as follows:

13 (d) If a ballot with a signed stub is found, the stub shall  
14 be enclosed and sealed in an envelope and deposited in envelope no.  
15 5 before the ballot is examined.

16 SECTION 10. Section 65.010(a), Election Code, is amended to  
17 read as follows:

18 (a) The following ballots may not be counted:

19 (1) a ballot that is not provided to the voter at the  
20 polling place;

21 (2) two or more ballots that are folded together in a  
22 manner indicating that they were folded together when deposited in  
23 the ballot box;

24 (3) a write-in envelope containing a write-in vote  
25 without an attached ballot; ~~or~~

26 (4) a ballot that has not been deposited in the ballot  
27 box used for the deposit of marked ballots; or

1                   (5) a ballot with an unsigned stub.

2           SECTION 11.   Section 66.003, Election Code, is amended to  
3 read as follows:

4           Sec. 66.003. ENVELOPES   FOR   DISTRIBUTION   OF   RECORDS.

5           (a) Five [~~Four~~] envelopes shall be furnished to each polling place  
6 for use in assembling and distributing the precinct election  
7 records.

8           (b) The envelopes shall be labeled and addressed as follows:

9                   (1) "Envelope No. 1," addressed to the presiding  
10 officer of the local canvassing authority;

11                   (2) "Envelope No. 2," addressed to the general  
12 custodian of election records;

13                   (3) "Envelope No. 3," addressed to the presiding  
14 judge; [~~and~~]

15                   (4) "Envelope No. 4," addressed to the voter  
16 registrar; and

17                   (5) "Envelope No. 5," addressed to the general  
18 custodian of election records.

19           SECTION 12.   Section 66.021(b), Election Code, is amended to  
20 read as follows:

21           (b) The judge shall seal envelopes no. 1, no. 2, [~~and~~] no.  
22 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
23 are ready for distribution.

24           SECTION 13.   Subchapter B, Chapter 66, Election Code, is  
25 amended by adding Section 66.0242 to read as follows:

26           Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
27 must contain the ballot stubs.

1           SECTION 14. Section 66.051(b), Election Code, is amended to  
2 read as follows:

3           (b) The presiding judge shall deliver envelope no. 2,  
4 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
5 in person to the general custodian of election records.

6           SECTION 15. Section 66.058, Election Code, is amended by  
7 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
8 read as follows:

9           (b) The voted ballots and ballot stubs shall be preserved  
10 securely in a locked room in the locked ballot box or sealed  
11 envelope, as applicable, in which they are delivered to the general  
12 custodian of election records. Except as permitted by this code, a  
13 ballot box containing voted ballots or an envelope containing  
14 ballot stubs may not be opened during the preservation period.

15           (c) If during the preservation period an authorized entry is  
16 made into a ballot box containing voted ballots or an envelope  
17 containing ballot stubs, when the purpose for the entry is  
18 fulfilled, the box or envelope shall be relocked or resealed, as  
19 applicable, and the box and key or envelope returned to the  
20 custodian.

21           (d) A custodian of a ballot box containing voted ballots or  
22 an envelope containing ballot stubs commits an offense if, during  
23 the preservation period prescribed by Subsection (a), the  
24 custodian:

25                   (1) makes an unauthorized entry into the box or  
26 envelope; or

27                   (2) fails to prevent another person from handling the



1     box or envelope in an unauthorized manner or from making an  
2     unauthorized entry into the box or envelope.

3             (h) The ballot stubs shall be destroyed after expiration of  
4     the prescribed preservation period, subject to an extension of the  
5     period under Section 1.013. The ballot stubs are confidential  
6     information and are not subject to public inspection before they  
7     are destroyed.

8             SECTION 16. Section 66.059, Election Code, is amended to  
9     read as follows:

10            Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

11     (a) On written application by the presiding officer of the local  
12     canvassing authority or the presiding judge of the election  
13     precinct, a district judge of the county in which a ballot box  
14     containing voted ballots or an envelope containing ballot stubs is  
15     in custody may order the box or envelope opened to retrieve an  
16     election record that was erroneously placed in the box or envelope.

17     (b) The district judge shall post a notice of the date,  
18     hour, and place for opening the box or envelope on the bulletin  
19     board used for posting notices of the meetings of the governing  
20     body of the political subdivision served by the general custodian  
21     of election records. The notice must remain posted continuously  
22     for the 24 hours immediately preceding the hour set for opening the  
23     box or envelope.

24     (c) Any interested person may observe the opening of the box  
25     or envelope.

26     (d) The district judge shall issue the orders necessary to  
27     safeguard the contents of a ballot box or envelope opened under

1       this section.

2               SECTION 17. Subchapter A, Chapter 124, Election Code, is  
3 amended by adding Section 124.006 to read as follows:

4               Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
5 secretary of state shall prescribe the form of a ballot stub and  
6 ballot for use with a stub and the necessary procedures to  
7 implement the ballot stub system prescribed by Section 52.074 for  
8 use with each voting system used in this state.

9               SECTION 18. Section 221.008, Election Code, is amended to  
10 read as follows:

11              Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
12 A tribunal hearing an election contest may cause secured ballot  
13 boxes, envelopes, voting machines, voting devices, or other  
14 equipment used in the election to be unsecured to determine the  
15 correct vote count or any other fact that the tribunal considers  
16 pertinent to a fair and just disposition of the contest.

17              SECTION 19. Sections 273.041, 273.042, and 273.043, Election  
18 Code, are amended to read as follows:

19              Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
20 investigation of criminal conduct in connection with an election, a  
21 grand jury, on finding probable cause to believe an offense was  
22 committed, may request a district judge of the county served by the  
23 grand jury to order an examination of the voted ballots and the  
24 ballot stubs [~~voted~~] in the election.

25              Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
26 grand jury for an examination of voted ballots and ballot stubs, a  
27 district judge may order the custodian of the [~~voted~~] ballots and

1     ballot stubs and the custodian of the keys to the ballot boxes to  
2     deliver the ballot boxes, [and-the] keys, and envelopes to the  
3     grand jury.

4             Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
5     ballots and ballot stubs under this subchapter shall be conducted  
6     in secret before the grand jury.

7             SECTION 20. The secretary of state by rule shall prescribe  
8     any procedures necessary to implement this Act.

9             SECTION 21. This Act takes effect September 1, 1997.

10            SECTION 22. The importance of this legislation and the  
11     crowded condition of the calendars in both houses create an  
12     emergency and an imperative public necessity that the  
13     constitutional rule requiring bills to be read on three several  
14     days in each house be suspended, and this rule is hereby suspended.

ADOPTED

MAY 26 1997

*Letty Ling*  
Secretary of the Senate

By *Francis Kapin*

Substitute the following for H B. No. 330:

By *Francis Kapin*

H B. No. 330

C.S. # B. No. 330

A BILL TO BE ENTITLED

AN ACT

relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and

1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, [AND] BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, [and]  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, [and] ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be [and] placed where they [it] will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Section 63.008, Election Code, is amended to read  
19 as follows:

20 Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST.

21 (a) A voter who does not present a voter registration certificate  
22 when offering to vote, but whose name is on the list of registered  
23 voters for the precinct in which the voter [he] is offering to  
24 vote, shall be accepted for voting if the voter executes an  
25 affidavit stating that the voter [he] does not have the voter's  
26 [his] voter registration certificate in the voter's [his]  
27 possession at the polling place at the time of offering to vote

1     and:

2             (1) the voter presents proof of identification in a  
3     form described by Section 63.0101; or

4             (2) the affidavit is also signed by a person who is  
5     working at the polling place and who attests to the identity of the  
6     voter.

7             (b) If the requirements prescribed by Subsection (a) are  
8     not met, the voter may not be accepted for voting, and an election  
9     officer shall indicate beside the voter's name on the list of  
10    registered voters that the voter was rejected under this section.

11            SECTION 8. Section 63.009, Election Code, is amended to read  
12    as follows:

13            Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.

14    (a) Except as provided by Subsection (b), a [A] voter who does not  
15    present a voter registration certificate when offering to vote, and  
16    whose name is not on the list of registered voters for the precinct  
17    in which the voter is offering to vote, shall be accepted for  
18    voting if[+]

19            ~~[(1)--an-election-officer-can-determine-from-the--voter~~  
20    ~~registrar--that-the-person-is-a-registered-voter-of-the-county,--and~~  
21    ~~the-voter-executes-the-affidavits-required-by-Sections--63.007--and~~  
22    ~~63.008,--or~~

23            ~~[(2)]~~ the voter presents proof of identification and  
24    executes an affidavit in accordance with Section 63.010.

25            (b) If an election officer can determine from the voter  
26    registrar that the person is a registered voter of the county, the  
27    affidavits required by Sections 63.007 and 63.008 are substituted

1 for the affidavit required by Section 63.010 in complying with that  
2 section. After the voter is accepted under this subsection  
3 [Subsection-(a)-(1)], an election officer shall also indicate beside  
4 the voter's name on the poll list that the voter was accepted under  
5 this section.

6 SECTION 9. Sections 63.010(d) and (e), Election Code, are  
7 amended to read as follows:

8 (d) The presiding judge shall inform a voter of a challenge  
9 and of the issues raised by the challenge. The presiding judge  
10 shall [may] request the [a] voter to present proof of  
11 identification in a form described by Section 63.0101 and to  
12 execute an affidavit that states the facts necessary to support the  
13 voter's eligibility to vote. On presentation of the required proof  
14 of identification and affidavit, the presiding judge shall  
15 determine the voter's identity. If the voter fails to present the  
16 required proof of identification, the presiding judge cannot verify  
17 the voter's identity from the proof presented, or the voter refuses  
18 to execute an affidavit, the voter may not be accepted for voting,  
19 and an election officer shall indicate on the affidavit or, if  
20 none, on a written statement containing the voter's name and any  
21 known residence address, and, if applicable, on the list of  
22 registered voters beside the voter's name that the voter was  
23 rejected under this section. After determining the voter's  
24 identity, the presiding judge shall return the documentation of  
25 proof to the voter~~[7-if-available---A-voter's-failure-to-present~~  
26 ~~proof-of-identification-does-not-affect-the-voter's-right--to--vote~~  
27 ~~under-this-section]~~.



1           (e) If a ~~[the]~~ challenged voter whose identity is verified  
2 executes an affidavit that states the facts necessary to support  
3 the voter's eligibility to vote, the voter shall be accepted, and  
4 "sworn" shall be entered on the poll list beside the voter's name.  
5 If the voter's ~~[challenged--voter-does-not-execute-an]~~ affidavit  
6 does not state ~~[that-states]~~ the facts necessary to support the  
7 voter's eligibility to vote, the voter may not be accepted for  
8 voting, and an election officer ~~["rejected"]~~ shall indicate on the  
9 affidavit and, if applicable, ~~[be--entered]~~ on the list of  
10 registered voters beside the voter's name that the voter was  
11 rejected under this section.

12           SECTION 10. Chapter 63, Election Code, is amended by adding  
13 Section 63.0101 to read as follows:

14           Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The  
15 following documentation is acceptable as proof of identification  
16 under this chapter:

17               (1) a driver's license or personal identification card  
18 issued to the person by the Department of Public Safety or a  
19 similar document issued to the person by an agency of another  
20 state, regardless of whether the license or card has expired;

21               (2) a form of identification containing the person's  
22 photograph that establishes the person's identity;

23               (3) a birth certificate or other document confirming  
24 birth that is admissible in a court of law and establishes the  
25 person's identity;

26               (4) United States citizenship papers issued to the  
27 person;

- 1                   (5) a United States passport issued to the person;  
2                   (6) pre-printed checks containing the person's name  
3 that are issued for a financial institution doing business in this  
4 state;  
5                   (7) official mail addressed to the person by name from  
6 a governmental entity;  
7                   (8) two other forms of identification that establish  
8 the person's identity; or  
9                   (9) any other form of identification prescribed by the  
10 secretary of state.

11           SECTION 11. Section 64.001, Election Code, is amended to  
12 read as follows:

13           Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
14 STUB. (a) After a voter is accepted for voting, the voter shall  
15 select a ballot, go to a voting station, and prepare the ballot,  
16 except as provided by Subsection (b).

17           (b) A voter who executes an affidavit in accordance with  
18 Section 63.010 shall select a ballot with a stub and, before going  
19 to a voting station:

- 20                   (1) unclip the stub and envelope from the ballot;  
21                   (2) sign the stub and enclose it in the envelope; and  
22                   (3) seal the envelope and give it to an election  
23 officer.

24           (c) The election officer shall deposit the ballot stub  
25 enclosed in its envelope in envelope no. 5.

26           SECTION 12. Section 65.005, Election Code, is amended by  
27 adding Subsection (d) to read as follows:

1           (d) If a ballot with a signed stub is found, the stub shall  
2           be enclosed and sealed in an envelope and deposited in envelope no.  
3           5 before the ballot is examined.

4           SECTION 13. Section 65.010(a), Election Code, is amended to  
5           read as follows:

6           (a) The following ballots may not be counted:

7                   (1) a ballot that is not provided to the voter at the  
8           polling place;

9                   (2) two or more ballots that are folded together in a  
10          manner indicating that they were folded together when deposited in  
11          the ballot box;

12                   (3) a write-in envelope containing a write-in vote  
13          without an attached ballot; ~~[or]~~

14                   (4) a ballot that has not been deposited in the ballot  
15          box used for the deposit of marked ballots; or

16                   (5) a ballot with an unsigned stub.

17          SECTION 14. Section 66.003, Election Code, is amended to  
18          read as follows:

19          Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.

20          (a) Five ~~[Four]~~ envelopes shall be furnished to each polling place  
21          for use in assembling and distributing the precinct election  
22          records.

23          (b) The envelopes shall be labeled and addressed as follows:

24                   (1) "Envelope No. 1," addressed to the presiding  
25          officer of the local canvassing authority;

26                   (2) "Envelope No. 2," addressed to the general  
27          custodian of election records;

1                   (3) "Envelope No. 3," addressed to the presiding  
2 judge; [and]

3                   (4) "Envelope No. 4," addressed to the voter  
4 registrar; and

5                   (5) "Envelope No. 5," addressed to the general  
6 custodian of election records.

7           SECTION 15. Section 66.021(b), Election Code, is amended to  
8 read as follows:

9           (b) The judge shall seal envelopes no. 1, no. 2, [and] no.  
10 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
11 are ready for distribution.

12           SECTION 16. Subchapter B, Chapter 66, Election Code, is  
13 amended by adding Section 66.0242 to read as follows:

14           Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
15 must contain the ballot stubs.

16           SECTION 17. Section 66.051(b), Election Code, is amended to  
17 read as follows:

18           (b) The presiding judge shall deliver envelope no. 2,  
19 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
20 in person to the general custodian of election records.

21           SECTION 18. Section 66.058, Election Code, is amended by  
22 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
23 read as follows:

24           (b) The voted ballots and ballot stubs shall be preserved  
25 securely in a locked room in the locked ballot box or sealed  
26 envelope, as applicable, in which they are delivered to the general  
27 custodian of election records. Except as permitted by this code, a

1 ballot box containing voted ballots or an envelope containing  
2 ballot stubs may not be opened during the preservation period.

3 (c) If during the preservation period an authorized entry is  
4 made into a ballot box containing voted ballots or an envelope  
5 containing ballot stubs, when the purpose for the entry is  
6 fulfilled, the box or envelope shall be relocked or resealed, as  
7 applicable, and the box and key or envelope returned to the  
8 custodian.

9 (d) A custodian of a ballot box containing voted ballots or  
10 an envelope containing ballot stubs commits an offense if, during  
11 the preservation period prescribed by Subsection (a), the  
12 custodian:

13 (1) makes an unauthorized entry into the box or  
14 envelope; or

15 (2) fails to prevent another person from handling the  
16 box or envelope in an unauthorized manner or from making an  
17 unauthorized entry into the box or envelope.

18 (h) The ballot stubs shall be destroyed after expiration of  
19 the prescribed preservation period, subject to an extension of the  
20 period under Section 1.013. The ballot stubs are confidential  
21 information and are not subject to public inspection before they  
22 are destroyed.

23 SECTION 19. Section 66.059, Election Code, is amended to  
24 read as follows:

25 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

26 (a) On written application by the presiding officer of the local  
27 canvassing authority or the presiding judge of the election

1 precinct, a district judge of the county in which a ballot box  
2 containing voted ballots or an envelope containing ballot stubs is  
3 in custody may order the box or envelope opened to retrieve an  
4 election record that was erroneously placed in the box or envelope.

5 (b) The district judge shall post a notice of the date,  
6 hour, and place for opening the box or envelope on the bulletin  
7 board used for posting notices of the meetings of the governing  
8 body of the political subdivision served by the general custodian  
9 of election records. The notice must remain posted continuously  
10 for the 24 hours immediately preceding the hour set for opening the  
11 box or envelope.

12 (c) Any interested person may observe the opening of the box  
13 or envelope.

14 (d) The district judge shall issue the orders necessary to  
15 safeguard the contents of a ballot box or envelope opened under  
16 this section.

17 SECTION 20. Subchapter A, Chapter 124, Election Code, is  
18 amended by adding Section 124.006 to read as follows:

19 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
20 secretary of state shall prescribe the form of a ballot stub and  
21 ballot for use with a stub and the necessary procedures to  
22 implement the ballot stub system prescribed by Section 52.074 for  
23 use with each voting system used in this state.

24 SECTION 21. Section 221.008, Election Code, is amended to  
25 read as follows:

26 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
27 A tribunal hearing an election contest may cause secured ballot

1 boxes, envelopes, voting machines, voting devices, or other  
2 equipment used in the election to be unsecured to determine the  
3 correct vote count or any other fact that the tribunal considers  
4 pertinent to a fair and just disposition of the contest.

5 SECTION 22. Sections 273.041, 273.042, and 273.043, Election  
6 Code, are amended to read as follows:

7 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
8 investigation of criminal conduct in connection with an election, a  
9 grand jury, on finding probable cause to believe an offense was  
10 committed, may request a district judge of the county served by the  
11 grand jury to order an examination of the voted ballots and the  
12 ballot stubs [~~voted~~] in the election.

13 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
14 grand jury for an examination of voted ballots and ballot stubs, a  
15 district judge may order the custodian of the [~~voted~~] ballots and  
16 ballot stubs and the custodian of the keys to the ballot boxes to  
17 deliver the ballot boxes, [~~and-the~~] keys, and envelopes to the  
18 grand jury.

19 Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
20 ballots and ballot stubs under this subchapter shall be conducted  
21 in secret before the grand jury.

22 SECTION 23. The secretary of state by rule shall prescribe  
23 any procedures necessary to implement this Act.

24 SECTION 24. This Act takes effect September 1, 1997.

25 SECTION 25. The importance of this legislation and the  
26 crowded condition of the calendars in both houses create an  
27 emergency and an imperative public necessity that the

1 constitutional rule requiring bills to be read on three several  
2 days in each house be suspended, and this rule is hereby suspended.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

May 17, 1997

To: Honorable Kenneth Armbrister, Chair  
Committee on State Affairs  
Senate  
Austin, Texas

IN RE: House Bill No. 330,  
Committee Report 2nd House,  
Substituted  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 (Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

<b>Biennial Net Impact to General Revenue Funds by HB330-Committee Report 2nd House, Substituted</b>
--

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

---

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill would amend the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be  $\$15.10 \times 20,394$  precincts = \$307,949.40.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

**Five Year Impact:**

1

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 0001
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

**Net Impact on General Revenue Related Funds:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	(\$307,949)
1999	0
2000	(307,949)
2001	0
2002	(307,949)

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, JD, PE, JC

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

May 5, 1997

To: Honorable Kenneth Armbrister, Chair  
Committee on State Affairs  
Senate  
Austin, Texas

IN RE: House Bill No. 330, As  
Engrossed  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 ( Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

<b>Biennial Net Impact to General Revenue Funds by HB330-As Engrossed</b>
---

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

---

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill would amend the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be  $\$15.10 \times 20,394$  precincts = \$307,949.40.

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Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, JD, PE, JC

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

February 16, 1997

To: Honorable Debra Danburg, Chair  
Committee on Elections  
House  
Austin, Texas

IN RE: House Bill No. 330  
By: Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 (Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

---

**Biennial Net Impact to General Revenue Funds by HB330-As Introduced**

---

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

---

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill amends the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**

The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be \$15.10 x 20,394 precincts = \$307,949.40.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

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The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
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Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, PE, JC

7.

# FISCAL NOTE

## SENATE AMENDMENTS

HB 330

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**75th Regular Session**

May 27, 1997

To: Honorable James E. "Pete" Laney  
Speaker of the House  
House of Representatives  
Austin, Texas

IN RE: House Bill No. 330, As  
Passed 2nd House  
Danburg

From: John Keel, Director

In response to your request for a Fiscal Note on HB330 (Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.) this office has determined the following:

<b>Biennial Net Impact to General Revenue Funds by HB330-As Passed 2nd House</b>
--

Implementing the provisions of the bill would result in a net negative impact of \$(307,949) to General Revenue Related Funds through the biennium ending August 31, 1999.

---

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**Fiscal Analysis**

This bill would amend the Election Code to provide new procedures for voting by "challenge affidavit." In addition to completing the affidavit, each challenged voter would have to sign a ballot stub, detach the stub, and place the signed stub in a sealed envelope before depositing the ballot in the box.

The procedure would not require examination of the stub later; however, a ballot with an unsigned stub would not be counted. This could add time to the examination procedure for ballots before counting by an electronic voting system and counting in a paper ballot system.

**Methodology**



The Secretary of State estimates that each of the 20,394 polling places in Texas as of the November 1996 primaries would need an average of ten challenge ballots and envelopes, and that placing a stub on a ballot would be a ballot format change costing \$15 per precinct. This bill would also require an extra envelope per precinct, estimated at \$.10 per envelope. Total cost would be  $\$15.10 \times 20,394$  precincts = \$307,949.40.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

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Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Local governments would be required to print separate ballots with stubs for challenged voters and to purchase additional ballot boxes for the deposit of challenged ballots.

Source: Agencies: 307 Secretary of State

LBB Staff: JK, JD, PE, JC

**ENROLLED**

H.B. No. 330

AN ACT

relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and

1                   (4) a space for the voter's signature.

2           SECTION 3. Section 61.005, Election Code, is amended to read  
3 as follows:

4           Sec. 61.005. SECURITY OF BALLOTS, ~~[AND]~~ BALLOT BOXES, STUBS,  
5 AND ENVELOPES. (a) From the time a presiding judge receives the  
6 official ballots for an election until the precinct returns for  
7 that election have been certified, the presiding judge shall take  
8 the precautions necessary to prevent access to the ballots, ~~[and]~~  
9 ballot boxes, ballot stubs, and stub envelopes in a manner not  
10 authorized by law.

11           (b) The ballots, ~~[and]~~ ballot boxes, ballot stubs, and stub  
12 envelopes at a polling place shall be in plain view of at least one  
13 election officer from the time the polls open for voting until the  
14 precinct returns have been certified.

15           (c) A presiding election judge commits an offense if the  
16 judge fails to prevent another person from handling a ballot box  
17 containing voters' marked ballots or an envelope containing voters'  
18 signed ballot stubs in an unauthorized manner or from making an  
19 unauthorized entry into the ballot box or envelope. An offense  
20 under this subsection is a Class A misdemeanor.

21           SECTION 4. Section 62.006, Election Code, is amended to read  
22 as follows:

23           Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED  
24 BALLOTS AND STUBS. The ballot box to be used by the voters to  
25 deposit marked ballots shall be locked. The ballot box and  
26 envelope no. 5 shall be ~~[and]~~ placed where they ~~[it]~~ will be in  
27 plain view of the election officers, watchers, and persons waiting

1 to vote.

2 SECTION 5. Chapter 62, Election Code, is amended by adding  
3 Section 62.0081 to read as follows:

4 Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. (a)  
5 The presiding judge shall enter on each ballot stub to be used at  
6 the polling place the same number that appears on the corresponding  
7 ballot, the designation of the nature of the election, and the date  
8 of the election.

9 (b) The preparation of ballot stubs need not be completed  
10 before the polls open, but an unprepared stub may not be made  
11 available for selection by the voters.

12 (c) The presiding judge shall clip the ballot stub and  
13 envelope for its enclosure to the corresponding ballot.

14 SECTION 6. Section 62.009, Election Code, is amended by  
15 adding Subsection (c) to read as follows:

16 (c) The ballots with stubs shall be placed separately from  
17 the regular ballots.

18 SECTION 7. Section 63.008, Election Code, is amended to read  
19 as follows:

20 Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST.

21 (a) A voter who does not present a voter registration certificate  
22 when offering to vote, but whose name is on the list of registered  
23 voters for the precinct in which the voter [he] is offering to  
24 vote, shall be accepted for voting if the voter executes an  
25 affidavit stating that the voter [he] does not have the voter's  
26 [his] voter registration certificate in the voter's [his]  
27 possession at the polling place at the time of offering to vote

1     and:

2             (1) the voter presents proof of identification in a  
3     form described by Section 63.0101; or

4             (2) the affidavit is also signed by a person who is  
5     working at the polling place and who attests to the identity of the  
6     voter.

7             (b) If the requirements prescribed by Subsection (a) are  
8     not met, the voter may not be accepted for voting, and an election  
9     officer shall indicate beside the voter's name on the list of  
10    registered voters that the voter was rejected under this section.

11            SECTION 8. Section 63.009, Election Code, is amended to read  
12    as follows:

13            Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.

14    (a) Except as provided by Subsection (b), a [A] voter who does not  
15    present a voter registration certificate when offering to vote, and  
16    whose name is not on the list of registered voters for the precinct  
17    in which the voter is offering to vote, shall be accepted for  
18    voting if[+]

19            ~~[(1)--an-election-officer-can-determine-from-the--voter~~  
20    ~~registrar--that-the-person-is-a-registered-voter-of-the-county,-and~~  
21    ~~the-voter-executes-the-affidavits-required-by-Sections--63.007--and~~  
22    ~~63.008,-or~~

23            ~~[(2)]~~ the voter presents proof of identification and  
24    executes an affidavit in accordance with Section 63.010.

25            (b) If an election officer can determine from the voter  
26    registrar that the person is a registered voter of the county, the  
27    affidavits required by Sections 63.007 and 63.008 are substituted

1 for the affidavit required by Section 63.010 in complying with that  
 2 section. After the voter is accepted under this subsection  
 3 ~~[Subsection-(a)(1)]~~, an election officer shall also indicate beside  
 4 the voter's name on the poll list that the voter was accepted under  
 5 this section.

6 SECTION 9. Sections 63.010(d) and (e), Election Code, are  
 7 amended to read as follows:

8 (d) The presiding judge shall inform a voter of a challenge  
 9 and of the issues raised by the challenge. The presiding judge  
 10 shall ~~[may]~~ request the ~~[a]~~ voter to present proof of  
 11 identification in a form described by Section 63.0101 and to  
 12 execute an affidavit that states the facts necessary to support the  
 13 voter's eligibility to vote. On presentation of the required proof  
 14 of identification and affidavit, the presiding judge shall  
 15 determine the voter's identity. If the voter fails to present the  
 16 required proof of identification, the presiding judge cannot verify  
 17 the voter's identity from the proof presented, or the voter refuses  
 18 to execute an affidavit, the voter may not be accepted for voting,  
 19 and an election officer shall indicate on the affidavit or, if  
 20 none, on a written statement containing the voter's name and any  
 21 known residence address, and, if applicable, on the list of  
 22 registered voters beside the voter's name that the voter was  
 23 rejected under this section. After determining the voter's  
 24 identity, the presiding judge shall return the documentation of  
 25 proof to the voter~~[7-if-available---A-voter's-failure-to-present~~  
 26 ~~proof-of-identification-does-not-affect-the-voter's-right--to--vote~~  
 27 ~~under-this-section]~~.

(e) If a ~~[the]~~ challenged voter whose identity is verified executes an affidavit that states the facts necessary to support the voter's eligibility to vote, the voter shall be accepted, and "sworn" shall be entered on the poll list beside the voter's name. If the voter's ~~[challenged--voter-does-not-execute-an]~~ affidavit does not state ~~[that-states]~~ the facts necessary to support the voter's eligibility to vote, the voter may not be accepted for voting, and an election officer ~~["rejected"]~~ shall indicate on the affidavit and, if applicable, ~~[be--entered]~~ on the list of registered voters beside the voter's name that the voter was rejected under this section.

SECTION 10. Chapter 63, Election Code, is amended by adding Section 63.0101 to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is acceptable as proof of identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;

(2) a form of identification containing the person's photograph that establishes the person's identity;

(3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship papers issued to the person;

1           (5) a United States passport issued to the person;

2           (6) pre-printed checks containing the person's name  
3 that are issued for a financial institution doing business in this  
4 state;

5           (7) official mail addressed to the person by name from  
6 a governmental entity;

7           (8) two other forms of identification that establish  
8 the person's identity; or

9           (9) any other form of identification prescribed by the  
10 secretary of state.

11           SECTION 11. Section 64.001, Election Code, is amended to  
12 read as follows:

13           Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF  
14 STUB. (a) After a voter is accepted for voting, the voter shall  
15 select a ballot, go to a voting station, and prepare the ballot,  
16 except as provided by Subsection (b).

17           (b) A voter who executes an affidavit in accordance with  
18 Section 63.010 shall select a ballot with a stub and, before going  
19 to a voting station:

20           (1) unclip the stub and envelope from the ballot;

21           (2) sign the stub and enclose it in the envelope; and

22           (3) seal the envelope and give it to an election  
23 officer.

24           (c) The election officer shall deposit the ballot stub  
25 enclosed in its envelope in envelope no. 5.

26           SECTION 12. Section 65.005, Election Code, is amended by  
27 adding Subsection (d) to read as follows:



1           (d) If a ballot with a signed stub is found, the stub shall  
2           be enclosed and sealed in an envelope and deposited in envelope no.  
3           5 before the ballot is examined.

4           SECTION 13. Section 65.010(a), Election Code, is amended to  
5           read as follows:

6           (a) The following ballots may not be counted:

7                   (1) a ballot that is not provided to the voter at the  
8           polling place;

9                   (2) two or more ballots that are folded together in a  
10          manner indicating that they were folded together when deposited in  
11          the ballot box;

12                  (3) a write-in envelope containing a write-in vote  
13          without an attached ballot; [or]

14                  (4) a ballot that has not been deposited in the ballot  
15          box used for the deposit of marked ballots; or

16                  (5) a ballot with an unsigned stub.

17          SECTION 14. Section 66.003, Election Code, is amended to  
18          read as follows:

19          Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.

20          (a) Five [~~Four~~] envelopes shall be furnished to each polling place  
21          for use in assembling and distributing the precinct election  
22          records.

23          (b) The envelopes shall be labeled and addressed as follows:

24                  (1) "Envelope No. 1," addressed to the presiding  
25          officer of the local canvassing authority;

26                  (2) "Envelope No. 2," addressed to the general  
27          custodian of election records;

1                   (3) "Envelope No. 3," addressed to the presiding  
2 judge; ~~[and]~~

3                   (4) "Envelope No. 4," addressed to the voter  
4 registrar; and

5                   (5) "Envelope No. 5," addressed to the general  
6 custodian of election records.

7           SECTION 15. Section 66.021(b), Election Code, is amended to  
8 read as follows:

9           (b) The judge shall seal envelopes no. 1, no. 2, ~~[and]~~ no.  
10 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they  
11 are ready for distribution.

12           SECTION 16. Subchapter B, Chapter 66, Election Code, is  
13 amended by adding Section 66.0242 to read as follows:

14           Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5  
15 must contain the ballot stubs.

16           SECTION 17. Section 66.051(b), Election Code, is amended to  
17 read as follows:

18           (b) The presiding judge shall deliver envelope no. 2,  
19 envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key  
20 in person to the general custodian of election records.

21           SECTION 18. Section 66.058, Election Code, is amended by  
22 amending Subsections (b), (c), and (d) and adding Subsection (h) to  
23 read as follows:

24           (b) The voted ballots and ballot stubs shall be preserved  
25 securely in a locked room in the locked ballot box or sealed  
26 envelope, as applicable, in which they are delivered to the general  
27 custodian of election records. Except as permitted by this code, a

1 ballot box containing voted ballots or an envelope containing  
2 ballot stubs may not be opened during the preservation period.

3 (c) If during the preservation period an authorized entry is  
4 made into a ballot box containing voted ballots or an envelope  
5 containing ballot stubs, when the purpose for the entry is  
6 fulfilled, the box or envelope shall be relocked or resealed, as  
7 applicable, and the box and key or envelope returned to the  
8 custodian.

9 (d) A custodian of a ballot box containing voted ballots or  
10 an envelope containing ballot stubs commits an offense if, during  
11 the preservation period prescribed by Subsection (a), the  
12 custodian:

13 (1) makes an unauthorized entry into the box or  
14 envelope; or

15 (2) fails to prevent another person from handling the  
16 box or envelope in an unauthorized manner or from making an  
17 unauthorized entry into the box or envelope.

18 (h) The ballot stubs shall be destroyed after expiration of  
19 the prescribed preservation period, subject to an extension of the  
20 period under Section 1.013. The ballot stubs are confidential  
21 information and are not subject to public inspection before they  
22 are destroyed.

23 SECTION 19. Section 66.059, Election Code, is amended to  
24 read as follows:

25 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.

26 (a) On written application by the presiding officer of the local  
27 canvassing authority or the presiding judge of the election

1 precinct, a district judge of the county in which a ballot box  
2 containing voted ballots or an envelope containing ballot stubs is  
3 in custody may order the box or envelope opened to retrieve an  
4 election record that was erroneously placed in the box or envelope.

5 (b) The district judge shall post a notice of the date,  
6 hour, and place for opening the box or envelope on the bulletin  
7 board used for posting notices of the meetings of the governing  
8 body of the political subdivision served by the general custodian  
9 of election records. The notice must remain posted continuously  
10 for the 24 hours immediately preceding the hour set for opening the  
11 box or envelope.

12 (c) Any interested person may observe the opening of the box  
13 or envelope.

14 (d) The district judge shall issue the orders necessary to  
15 safeguard the contents of a ballot box or envelope opened under  
16 this section.

17 SECTION 20. Subchapter A, Chapter 124, Election Code, is  
18 amended by adding Section 124.006 to read as follows:

19 Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The  
20 secretary of state shall prescribe the form of a ballot stub and  
21 ballot for use with a stub and the necessary procedures to  
22 implement the ballot stub system prescribed by Section 52.074 for  
23 use with each voting system used in this state.

24 SECTION 21. Section 221.008, Election Code, is amended to  
25 read as follows:

26 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
27 A tribunal hearing an election contest may cause secured ballot

1 boxes, envelopes, voting machines, voting devices, or other  
2 equipment used in the election to be unsecured to determine the  
3 correct vote count or any other fact that the tribunal considers  
4 pertinent to a fair and just disposition of the contest.

5 SECTION 22. Sections 273.041, 273.042, and 273.043, Election  
6 Code, are amended to read as follows:

7 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the  
8 investigation of criminal conduct in connection with an election, a  
9 grand jury, on finding probable cause to believe an offense was  
10 committed, may request a district judge of the county served by the  
11 grand jury to order an examination of the voted ballots and the  
12 ballot stubs [~~voted~~] in the election.

13 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a  
14 grand jury for an examination of voted ballots and ballot stubs, a  
15 district judge may order the custodian of the [~~voted~~] ballots and  
16 ballot stubs and the custodian of the keys to the ballot boxes to  
17 deliver the ballot boxes, [~~and-the~~] keys, and envelopes to the  
18 grand jury.

19 Sec. 273.043. CONDUCT OF EXAMINATION. The examination of  
20 ballots and ballot stubs under this subchapter shall be conducted  
21 in secret before the grand jury.

22 SECTION 23. The secretary of state by rule shall prescribe  
23 any procedures necessary to implement this Act.

24 SECTION 24. This Act takes effect September 1, 1997.

25 SECTION 25. The importance of this legislation and the  
26 crowded condition of the calendars in both houses create an  
27 emergency and an imperative public necessity that the

H.B. No. 330

1 constitutional rule requiring bills to be read on three several  
2 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 330

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 330 was passed by the House on April 29, 1997, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 330 on May 28, 1997, by a non-record vote.

---

Chief Clerk of the House

I certify that H.B. No. 330 was passed by the Senate, with amendments, on May 26, 1997, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 330  
(1) was passed by the House on

April 29  
(2), 1997, by a non-record vote;

and that the House concurred in Senate amendments to H.B. No. 330  
on May 28  
(3), 1997, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: CT47;

I certify that H.B. No. 330  
(1) was passed by the Senate, with  
amendments, on May 26  
(2), 1997, by the

following vote: Yeas 31  
(3), Nays 0  
(4).

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: CT32;



H.B. No. 330

A BILL TO BE ENTITLED  
AN ACT

By (Danbury)

Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

DEC 17 1996

Filed with the Chief Clerk

FEB 3 1997

Read first time and referred to Committee on election

APR 1 1997

Reported favorably (~~as amended~~)  
(~~as substituted~~)

APR 10 1997

Sent to Committee on (Calendars)  
(~~Local & General Calendars~~)

APR 28 1997

Read second time (~~as amended~~) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote)  
(~~record vote of~~ yeas nays present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of yeas, nays, present, not voting

APR 29 1997

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (non-record vote)  
(~~record vote of~~ yeas nays present, not voting)

APR 29 1997

Engrossed

APR 30 1997

Sent to Senate

Sharon Carter

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 30 1997

Received from the House

MAY 1 1997

Read and referred to Committee on STATE AFFAIRS

Reported favorably

MAY 18 1997

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

MAY 26 1997

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(yeas, nays)

MAY 26 1997

Read second time, yeas, nays, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(yeas, nays)

MAY 26 1997

Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 26 1997

Read third time, yeas, nays, and passed by (a viva voce vote)  
(31 yeas, 0 nays)

May 26, 1997

Returned to the House

Betty King

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 26 1997

Returned from the Senate (as substituted)

(s)

MAY 28 1997

House concurred in Senate amendments by a (non-record vote)

(s)

House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,

\_\_\_\_\_

Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;

\_\_\_\_\_

Conference committee report adopted (rejected) by the House by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

5/28/97 11:41

97 APR 10 AM 12:01

HOUSE COMMITTEE